
COLORADO REVISED STATUTES

Title 12 **Professions and Occupations**

Article 43 **Mental Health**

Effective July 1, 2011

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PART 1

LEGISLATIVE DECLARATION

12-43-101. Legislative declaration.

The general assembly hereby finds and determines that, in order to safeguard the public health, safety, and welfare of the people of this state and in order to protect the people of this state against the unauthorized, unqualified, and improper application of psychology, social work, marriage and family therapy, professional counseling, psychotherapy, and addiction counseling, it is necessary that the proper regulatory authorities be established and adequately provided for. The general assembly therefore declares that there shall be established a state board of psychologist examiners, a state board of social work examiners, a state board of marriage and family therapist examiners, a state board of licensed professional counselor examiners, a state board of registered psychotherapists, and a state board of addiction counselor examiners with the authority to license, register, or certify, and take disciplinary actions or bring injunctive actions, or both, concerning licensed psychologists and psychologist candidates, licensed social workers, licensed marriage and family therapists and marriage and family therapist candidates, licensed professional counselors and licensed professional counselor candidates, registered psychotherapists, and licensed and certified addiction counselors, respectively, and mental health professionals who have been issued a provisional license pursuant to this article.

PART 2

GENERAL PROVISIONS

12-43-201. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Board" includes the state board of psychologist examiners, the state board of social work examiners, the state board of licensed professional counselor examiners, the state board of marriage and family therapist examiners, the state board of registered psychotherapists, and the state board of addiction counselor examiners.

(1.3) "Certificate holder" means an addiction counselor certified pursuant to this article.

(1.5) "Certified addiction counselor" means a person who is an addiction counselor certified pursuant to this article.

(1.7) "Director" means the director of the division of registrations in the department of regulatory agencies.

(1.8) "Division" means the division of registrations in the department of regulatory agencies.

(2) (Deleted by amendment, L. 2000, p. 1841, § 17, effective August 2, 2000.)

(3) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1278, § 7, effective July 1, 2011.)

(3.5) "Licensed addiction counselor" means a person who is an addiction counselor licensed pursuant to this article.

(4) (Deleted by amendment, L. 98, p. 1107, § 4, effective July 1, 1998.)

(5) "Licensed professional counselor" means a person who is a professional counselor licensed pursuant to this article.

(5.5) “Licensed social worker” means a person who:

- (a) Is a licensed social worker or licensed clinical social worker; and
- (b) Is licensed pursuant to this article.

(6) “Licensee” means a psychologist, social worker, clinical social worker, marriage and family therapist, licensed professional counselor, or addiction counselor licensed pursuant to this article.

(7) “Marriage and family therapist” means a person who is a marriage and family therapist licensed pursuant to this article.

(7.5) “Professional relationship” means an interaction that is deliberately planned or directed, or both, by the licensee, registrant, or certificate holder toward obtaining specific objectives.

(7.7) (a) “Provisional license” means a license or certification issued pursuant to section 12-43-206.5.

(b) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1278, § 7, effective July 1, 2011.)

(7.8) (a) “Provisional licensee” means a person who holds a provisional license pursuant to section 12-43-206.5.

(b) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1278, § 7, effective July 1, 2011.)

(8) “Psychologist” means a person who is a psychologist licensed pursuant to this article.

(9) (a) “Psychotherapy” means the treatment, diagnosis, testing, assessment, or counseling in a professional relationship to assist individuals or groups to alleviate mental disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning. Psychotherapy follows a planned procedure of intervention that takes place on a regular basis, over a period of time, or in the cases of testing, assessment, and brief psychotherapy, psychotherapy can be a single intervention.

(b) It is the intent of the general assembly that the definition of psychotherapy as used in this article be interpreted in its narrowest sense to regulate only those persons who clearly fall within the definition set forth in this subsection (9).

(9.1) (a) “Registered psychotherapist” means a person:

(I) Whose primary practice is psychotherapy or who holds himself or herself out to the public as being able to practice psychotherapy for compensation; and

(II) Who is registered with the state board of registered psychotherapists pursuant to section 12-43-702.5 to practice psychotherapy in this state.

(b) “Registered psychotherapist” also includes a person who:

(I) Is a licensed school psychologist licensed pursuant to section 22-60.5-210 (1) (b), C.R.S.;

(II) Is practicing outside of a school setting; and

(III) Is registered with the state board of registered psychotherapists pursuant to section 12-43-702.5.

(9.3) “Registrant” means a psychologist candidate, marriage and family therapist candidate, or licensed professional counselor candidate registered pursuant to section 12-43-304 (7), 12-43-504 (5), or 12-43-603 (5), respectively, or a registered psychotherapist.

(9.5) to (10) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1278, § 7, effective July 1, 2011.)

12-43-202. Practice outside of or beyond professional training, experience, or competence-

general scope of practice for licensure, registration, or certification.

(1) Notwithstanding any other provision of this article, no licensee, registrant, or certificate holder is authorized to practice outside of or beyond his or her area of training, experience, or competence.

(2) The practice of psychotherapy is one area of practice for mental health professionals licensed, certified, or registered pursuant to this article but may not be the only or primary practice area of such professionals, other than persons registered as psychotherapists pursuant to part 7 of this article. The requirements for licensure, registration, or certification as a mental health professional pursuant to this article are contained in sections 12-43-303, 12-43-403, 12-43-503, 12-43-602.5, and 12-43-803, which define the practice of psychology, social work, marriage and family therapy, licensed professional counseling, and addiction counseling, respectively.

12-43-203. Boards-meetings-duties-powers-removal of members-immunity.

(1) In addition to all other powers and duties conferred or imposed upon each board by this article or by any other law, each board shall have the powers specified in this section.

(2) (a) (I) Each board shall annually hold a meeting and elect from its membership a chairperson and vice-chairperson. Each board shall meet at such times as it deems necessary or advisable or as deemed necessary and advisable by the chairperson or a majority of its members. Each board may conduct meetings by electronic means. Each board shall give reasonable notice of its meetings in the manner prescribed by law. A majority of each board constitutes a quorum at any meeting or hearing.

(II) All meetings are open to the public, except when:

(A) A board, or an administrative law judge acting on behalf of a board, specifically determines that the harm to a complainant or other recipient of services to keep such proceedings or related documents open to the public outweighs the public interest in observing the proceedings; or

(B) The licensee, registrant, or certificate holder is participating in good faith in a program approved by the board designed to end an addiction or dependency and the licensee, registrant, or certificate holder has not violated the board's order regarding the person's participation in the treatment program.

(III) If the board determines that it is in the best interest of a complainant or other recipient of services to keep proceedings or related documents closed to the public, the final action of the board must be open to the public without disclosing the name of the client or other recipient. In all open meetings, the board shall take reasonable steps to keep the names of the recipients of services confidential.

(b) The proceedings of each board shall be conducted pursuant to article 4 of title 24, C.R.S.

(3) Each board is authorized to:

(a) Adopt, and from time to time revise, such rules and regulations as may be necessary to carry out its powers and duties;

(b) Adopt an examination;

(c) Examine for, deny, withhold, or approve the license of an applicant, and renew licenses pursuant to section 12-43-212;

(d) Appoint advisory committees to assist in the performance of its duties;

(e) Conduct hearings as necessary to carry out its powers and duties.

(3.5) In carrying out its duties related to the approval of applications for licensure, registration, or certification pursuant to this section, section 12-43-212, and this article, each board shall delegate the function of the preliminary review and approval of applications to the staff of the board, with approval of

an application ratified by action of the board. Each board, in its sole discretion, may individually review any application requiring board consideration prior to the approval of the application pursuant to section 12-43-212 and this article.

(4) Each board shall maintain current lists of the names of all licensees, registrants, and certificate holders and records of cases and decisions rendered by the board. In addition, each board shall keep an accurate record of the results of all examinations.

(5) Repealed.

(6) Publications of each board intended for circulation in quantity outside the board shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

(7) (a) A member of a board or of a professional review committee authorized by a board, a member of staff to a board or committee, a person acting as a witness or consultant to a board or committee, a witness testifying in a proceeding authorized under this article, and a person who lodges a complaint pursuant to this article is immune from liability in a civil action brought against him or her for acts occurring while acting in his or her capacity as a board or committee member, staff, consultant, or witness, respectively, if the individual was acting in good faith within the scope of his or her respective capacity, made a reasonable effort to obtain the facts of the matter as to which he or she acted, and acted in the reasonable belief that the action taken by him or her was warranted by the facts. A person participating in good faith in lodging a complaint or participating in an investigative or administrative proceeding pursuant to this article is immune from any civil or criminal liability that may result from such participation.

(b) A person participating in good faith in the making of a complaint or report or participating in any investigative or administrative proceeding before the board pursuant to this article is immune from any civil or criminal liability that might result by reason of the action.

(8) (Deleted by amendment, L. 98, p. 1108, § 6, effective July 1, 1998.)

(9) Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact and shall not vote upon such matter.

(10) The governor may remove any board member for misconduct, incompetence, or neglect of duty. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three-quarters of the board's meetings in any one calendar year.

(11) (a) (I) Subject to the requirements of subparagraph (II) of this paragraph (a), a professional review committee may be established pursuant to this subsection (11) to investigate the quality of care being given by a person licensed, registered, or certified pursuant to this article. If a professional review committee is established, it must include in its membership at least three persons licensed, registered, or certified under this article, and such persons must be licensees, registrants, or certificate holders in the same profession as the licensee, registrant, or certificate holder who is the subject of a professional review proceeding.

(II) A professional review committee may be authorized to act only by a society or an association of persons licensed, registered, or certified pursuant to this article whose membership includes not less than one-third of the persons licensed, registered, or certified pursuant to this article residing in this state if the licensee, registrant, or certificate holder whose services are the subject of review is a member of the society or association.

(b) (Deleted by amendment, L. 2004, p.1849, § 101, effective Aug. 4, 2004.)

(12) The boards shall develop rules or policies to provide guidance to persons licensed, registered, or certified pursuant to this article to assist in determining whether a relationship with a client or potential

client is likely to impair his or her professional judgment or increase the risk of client exploitation in violation of section 12-43-222 (1) (i).

12-43-203.5. Limitation on authority.

The authority granted each board under the provisions of this article does not authorize a board to arbitrate or adjudicate fee disputes between licensees, registrants, or certificate holders, or between a licensee, registrant, or certificate holder and any other party.

12-43-204. Fees-renewal.

(1) All fees collected pursuant to this article shall be determined, collected, and appropriated in the same manner as set forth in section 24-34-105, C.R.S.

(2) Each board may charge fees established pursuant to section 24-34-105, C.R.S., to all applicants for licensure, registration, or certification under this article.

(3) Every person licensed, registered, or certified to practice psychology, social work, marriage and family therapy, professional counseling, psychotherapy, or addiction counseling within the state shall renew his or her license, registration, or certification pursuant to a schedule established by the director, and licenses, registrations, and certifications shall be renewed pursuant to section 24-34-102 (8), C.R.S. The director may establish renewal fees and delinquency fees pursuant to section 24-34-105, C.R.S. If a person fails to renew his or her license, registration, or certification pursuant to the schedule established by the director, the license, registration, or certification expires. Any person whose license, registration, or certification expires is subject to the penalties provided in this article or section 24-34-102 (8), C.R.S.

(3.5) The director shall coordinate fee-setting pursuant to this section so that all licensees, registrants, and certificate holders pay fees as required by this section and section 12-43-702.5 (1).

(4) (Deleted by amendment, L. 2004, p. 1850, § 102, effective. Aug. 4, 2004.)

12-43-205. Records.

(1) Each board shall keep a record of proceedings and a register of all applications for licenses, registrations, or certifications, which must include:

- (a) The name and age of each applicant;
- (b) The date of the application;
- (c) The mailing address of the applicant;
- (d) A summary of the educational and other qualifications of each applicant;
- (e) Whether or not an examination was required and, if required, proof that the applicant passed the examination;
- (f) Whether licensure, registration, or certification was granted;
- (g) The date of the action of the board;
- (h) Other information the board deems necessary or advisable in aid of the requirements of this section.

12-43-206. Licensure by endorsement-rules.

A board may issue a license by endorsement to engage in the practice of psychology, social work, marriage and family therapy, professional counseling, or addiction counseling to an applicant who has a license, registration, or certification in good standing as a psychologist, social worker, marriage and

family therapist, licensed professional counselor, or addiction counselor under the laws of another jurisdiction if the applicant presents proof satisfactory to the board that, at the time of application for a Colorado license by endorsement, the applicant possesses credentials and qualifications that are substantially equivalent to the requirements of section 12-43-304, 12-43-404, 12-43-504, 12-43-603, or 12-43-804, whichever is applicable. Each board shall promulgate rules setting forth the manner in which the board will review credentials and qualifications of an applicant.

12-43-206.5. Provisional license-fees.

(1) (a) The board may issue a provisional license to an applicant who has completed a post-graduate degree that meets the educational requirements for licensure in section 12-43-304, 12-43-403, 12-43-504, 12-43-603, or 12-43-804, as applicable, and who is working in a residential child care facility as defined in section 26-6-102 (8), C.R.S., under the supervision of a licensee.

(b) A provisional license issued pursuant to paragraph (a) of this subsection (1) terminates at the earliest of:

(I) Thirty days after termination of the provisional licensee's employment with a qualifying residential child care facility, unless the provisional licensee obtains and submits to the board proof of employment with another residential child care facility; or

(II) Thirty days after termination of the provisional licensee's supervision by a licensee unless the provisional licensee obtains and submits to the board proof of supervision by another licensee.

(c) A provisional licensee shall notify the board of any change in supervision within thirty days after the change.

(2) Each board may charge an application fee to an applicant for a provisional license. All fees collected pursuant to this subsection (2) shall be transmitted to the state treasurer, who shall credit the same to the division of registrations cash fund pursuant to section 24-34-105, C.R.S. An application for a provisional license must identify the name, contact information, and license number of the licensee providing supervision of the provisional licensure applicant.

(3) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1278, § 6, effective July 1, 2011.)

12-43-207. License-issuance.

Each board shall issue a license, registration, or certification, as appropriate, when an applicant successfully qualifies for licensure, registration, or certification as provided in this article.

12-43-208. Drugs-medicine.

Nothing in this article permits psychologists, social workers, marriage and family therapists, licensed professional counselors, psychotherapists, and addiction counselors licensed, registered, or certified under this article to administer or prescribe drugs or in any manner engage in the practice of medicine as defined by the laws of this state.

12-43-209. Collaborate with physician.

In order to provide for the diagnosis and treatment of medical problems, a licensee, registrant, or certificate holder shall collaborate with a physician licensed under the laws of this state, except when practicing pursuant to section 12-43-201 (9). A licensee, registrant, or certificate holder shall not diagnose, prescribe for, treat, or advise a client with reference to medical problems.

12-43-210. Division of registrations to supervise.

Each board shall be under the supervision and control of the division of registrations of the department of regulatory agencies as created by section 24-34-102, C.R.S

12-43-211. Professional service corporations for the practice of psychology, social work, marriage and family therapy, professional counseling, and addiction counseling-definitions.

(1) Licensees, registrants, or certificate holders may form professional service corporations for the practice of psychology, social work, marriage and family therapy, professional counseling, psychotherapy, or addiction counseling under the “Colorado Business Corporation Act”, articles 101 to 117 of title 7, C.R.S., if the corporations are organized and operated in accordance with this section. The articles of incorporation of a professional service corporation formed pursuant to this section must contain provisions complying with the following requirements:

(a) The name of the corporation shall contain the words “professional company” or “professional corporation” or abbreviations thereof.

(b) The corporation must be organized by licensees, registrants, or certificate holders for the purpose of conducting the practice of psychology, social work, marriage and family therapy, professional counseling, psychotherapy, or addiction counseling by the respective licensees, registrants, or certificate holders of those practices. The corporation may be organized with any other person, and any person may own shares in such corporation, if the following conditions are met:

(I) The practice of psychology, as defined in section 12-43-303, by the professional service corporation is performed by or under the supervision of a licensed psychologist, and any psychologist member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided elsewhere in this article;

(II) (Deleted by amendment, L. 98, p. 1111, § 11, effective July 1, 1998.)

(III) The practice of social work, as defined in section 12-43-403, by the professional service corporation is performed by a licensed social worker acting independently or under the supervision of a person licensed pursuant to this article or a licensed social worker. Any licensed social worker member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided elsewhere in this article.

(IV) The practice of marriage and family therapy, as defined in section 12-43-503, by the professional service corporation is performed by a licensed marriage and family therapist acting independently or under the supervision of a person licensed pursuant to this article or a licensed marriage and family therapist. Any licensed marriage and family therapist member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided elsewhere in this article.

(V) The practice of professional counseling, as defined in section 12-43-601, by the professional service corporation is performed by a licensed professional counselor acting independently or under the supervision of a person licensed pursuant to this article or a licensed professional counselor. Any licensed professional counselor member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided elsewhere in this article.

(VI) The practice of addiction counseling, as defined in section 12-43-802, by the professional service corporation is performed by a licensed addiction counselor acting independently or under the supervision of a person licensed pursuant to this article or a licensed addiction counselor. Any licensed addiction counselor member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided in this article; or

(VII) The practice of psychotherapy, as defined in section 12-43-201, by the professional service

corporation is performed by a registered psychotherapist acting independently or under the supervision of a person licensed pursuant to this article or a registered psychotherapist. Any registered psychotherapist member of the professional service corporation remains individually responsible for his or her professional acts and conduct as provided in this article.

(c) The corporation may exercise the powers and privileges conferred upon corporations by the laws of Colorado only in furtherance of and subject to its corporate purpose.

(d) and (e) Repealed.

(f) Lay directors and officers shall not exercise any authority whatsoever over professional matters.

(g) The articles of incorporation must provide, and all shareholders of the corporation must agree, that either all shareholders of the corporation are jointly and severally liable for all acts, errors, and omissions of the employees of the corporation or that all shareholders of the corporation are jointly and severally liable for all acts, errors, and omissions of the employees of the corporation except during periods when the corporation maintains professional liability insurance that meets the following minimum standards:

(I) The insurance insures the corporation against liability imposed upon the corporation by law for damages resulting from any claim made against the corporation arising out of the performance of professional services for others by those officers and employees of the corporation who are licensed, registered, or certified to practice under this article or by those employees who provide professional services under supervision.

(II) The insurance insures the corporation against liability imposed upon it by law for damages arising out of the acts, errors, and omissions of all nonprofessional employees.

(III) The insurance is in an amount for each claim of at least one hundred thousand dollars multiplied by the number of persons licensed, registered, or certified to practice under this article who are employed by the corporation. The policy may provide for an aggregate maximum limit of liability per year for all claims of three hundred thousand dollars also multiplied by the number of licensees, registrants, or certificate holders employed by the corporation, but no corporation is required to carry insurance in excess of three hundred thousand dollars for each claim with an aggregate maximum limit of liability for all claims during the year of nine hundred thousand dollars.

(IV) The insurance policy may provide that it does not apply to: Any dishonest, fraudulent, criminal, or malicious act or omission of the insured corporation or any stockholder or employee of the corporation; or the conduct of any business enterprise, as distinguished from the practice of licensees, registrants, or certificate holders, in which the insured corporation under this section is not permitted to engage but that nevertheless may be owned by the insured corporation or in which the insured corporation may be a partner or that may be controlled, operated, or managed by the insured corporation in its own or in a fiduciary capacity, including the ownership, maintenance, or use of any property in connection therewith, when not resulting from breach of professional duty of, bodily injury to, or sickness, disease, or death of any person or to injury to or destruction of any tangible property, including the loss of use of tangible property.

(V) The insurance policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, and other usual matters.

(2) The corporation shall not act or fail to act in a manner that would violate section 12-43-222 (1). Any violation of this section by the corporation is grounds for a board to discipline any licensee, registrant, or certificate holder who is a member of or is employed by the corporation pursuant to section 12-43-224.

(3) Nothing in this section diminishes or changes the obligation of each licensee, registrant, or

certificate holder employed by the corporation to conduct his or her practice in a manner that does not violate section 12-43-222 (1). Any licensee, registrant, or certificate holder who, by act or omission, causes the corporation to act or fail to act in a way that violates section 12-43-222 (1) or this section is personally responsible for the act or omission and is subject to discipline by the board.

(4) A professional service corporation may adopt a pension, profit sharing (whether cash or deferred), health and accident, insurance, or welfare plan for all of its employees, including lay employees, if such plan does not require or result in the sharing of specific or identifiable fees with lay employees and if any payments made to lay employees, or into any such plan in behalf of lay employees, are based upon their compensation or length of service, or both, rather than the amount of fees or income received.

(5) Nothing in this section shall be deemed to modify the privileges regarding confidential communications specified in sections 12-43-218 and 13-90-107 (1) (g), C.R.S.

(6) Nothing in this article limits persons licensed, registered, or certified under this article from forming a corporation with persons licensed, registered, or certified under this article.

(7) As used in this section, unless the context otherwise requires:

(a) "Articles of incorporation" includes operating agreements of limited liability companies and partnership agreements of registered limited liability partnerships.

(b) "Corporation" includes a limited liability company organized under the "Colorado Limited Liability Company Act", article 80 of title 7, C.R.S., and a limited liability partnership registered under section 7-60-144 or 7-64-1002, C.R.S.

(c) "Director" and "officer" of a corporation includes a member and a manager of a limited liability company and a partner in a registered limited liability partnership.

(d) "Employees" includes employees, members, and managers of a limited liability company and employees and partners of a registered limited liability partnership.

(e) "Share" includes a member's rights in a limited liability company and a partner's rights in a registered limited liability partnership.

(f) "Shareholder" includes a member of a limited liability company and a partner in a registered limited liability partnership.

12-43-212. Denial of license, registration, or certification-reinstatement.

(1) Each board is empowered to determine whether an applicant for licensure, registration, or certification, or for registry as a candidate for licensure, registration, or certification, possesses the qualifications required by this article.

(2) If a board determines that an applicant does not possess the applicable qualifications required by this article or, for a licensed clinical social worker, licensed social worker, licensed marriage and family therapist, licensed professional counselor, licensed addiction counselor, or level II or III certified addiction counselor, is unable to demonstrate his or her continued professional competence as required by section 12-43-411, 12-43-506, 12-43-605, or 12-43-805, respectively, the board may deny the applicant a license, registration, or certification or deny the reinstatement of a license, registration, or certification. If the application is denied, the board shall provide the applicant with a statement in writing setting forth the basis of the board's determination that the applicant does not possess the qualifications or professional competence required by this article. The applicant may request a hearing on the determination as provided in section 24-4-104 (9), C.R.S.

(3) If a board has any reason to believe that or receives any information that an applicant has

committed any of the acts set forth in section 12-43-222 (1) as grounds for discipline, the board may deny a license, registration, or certification to the applicant if the board determines that there is a basis for the denial. The order of the board to grant or deny a license, registration, or certification constitutes final agency action.

(4) A board, on its own motion or upon application, at any time after the refusal to grant a license, registration, or certification, may reconsider its prior action and grant a license, registration, or certification. The board has sole discretion to determine whether to take further action on the application after it refuses to grant a license, registration, or certification.

12-43-213. Legislative intent-schools and colleges-examinations.

It is the intent of the general assembly that the definition relating to full-time courses of study and institutions of higher education for graduation of persons who are qualified to take examinations for licensure under this article be liberally construed by each board under the board's rule-making powers to ensure the right to take the examinations. It is not the intent that technical barriers be used to deny the ability to take an examination.

12-43-214. Mandatory disclosure of information to clients.

(1) Except as otherwise provided in subsection (4) of this section, every licensee, registrant, or certificate holder shall provide the following information verbally and in writing to each client during the initial client contact:

(a) The name, business address, and business phone number of the licensee, registrant, or certificate holder;

(b) (I) An explanation of the levels of regulation applicable to mental health professionals under this article and the differences between licensure, registration, and certification, including the educational, experience, and training requirements applicable to the particular level of regulation; and

(II) A listing of any degrees, credentials, certifications, registrations, and licenses held or obtained by the licensee, registrant, or certificate holder, including the education, experience, and training the licensee, registrant, or certificate holder was required to satisfy in order to obtain the degree, credentials, certifications, registrations, or licenses;

(c) A statement indicating that the practice of licensed or registered persons in the field of psychotherapy is regulated by the division, and an address and telephone number for the board that regulates the licensee, registrant, or certificate holder;

(d) A statement indicating that:

(I) A client is entitled to receive information about the methods of therapy, the techniques used, the duration of therapy, if known, and the fee structure;

(II) The client may seek a second opinion from another therapist or may terminate therapy at any time;

(III) In a professional relationship, sexual intimacy is never appropriate and should be reported to the board that licenses, registers, or certifies the licensee, registrant, or certificate holder;

(IV) The information provided by the client during therapy sessions is legally confidential in the case of licensed marriage and family therapists, social workers, professional counselors, and psychologists; licensed or certified addiction counselors; and registered psychotherapists, except as provided in section 12-43-218 and except for certain legal exceptions that will be identified by the licensee, registrant, or certificate holder should any such situation arise during therapy; and

(e) If the mental health professional is a registered psychotherapist, a statement indicating that a registered psychotherapist is a psychotherapist listed in the state's database and is authorized by law to practice psychotherapy in Colorado but is not licensed by the state and is not required to satisfy any standardized educational or testing requirements to obtain a registration from the state.

(2) If the client is a child who is consenting to mental health services pursuant to section 27-65-103, C.R.S., disclosure shall be made to the child. If the client is a child whose parent or legal guardian is consenting to mental health services, disclosure shall be made to the parent or legal guardian.

(3) In residential, institutional, or other settings where psychotherapy may be provided by multiple providers, disclosure shall be made by the primary therapist. The institution shall also provide a statement to the patient containing the information in paragraphs (c) and (d) of subsection (1) of this section and a statement that the patient is entitled to the information listed in paragraphs (a) and (b) of subsection (1) of this section concerning any psychotherapist in the employ of the institution who is providing psychotherapy services to the patient.

(4) The disclosure of information required by subsection (1) of this section is not required when psychotherapy is being administered in any of the following circumstances:

- (a) In an emergency;
- (b) Pursuant to a court order or involuntary procedures pursuant to sections 27-65-105 to 27-65-109, C.R. S.;
- (c) The sole purpose of the professional relationship is for forensic evaluation;
- (d) The client is in the physical custody of either the department of corrections or the department of human services and such department has developed an alternative program to provide similar information to such client and such program has been established through rule or regulation;
- (e) The client is incapable of understanding such disclosure and has no guardian to whom disclosure can be made;
- (f) By a social worker practicing in a hospital that is licensed or certified under section 25-1.5-103 (1) (a) (I) or (1) (a) (II), C.R.S.;
- (g) By a person licensed or certified pursuant to this article, or by a registered psychotherapist practicing in a hospital that is licensed or certified under section 25-1.5-103 (1) (a) (I) or (1) (a) (II), C.R.S.

(5) If the client has no written language or is unable to read, an oral explanation shall accompany the written copy.

(6) Unless the client, parent, or guardian is unable to write, or refuses or objects, the client, parent, or guardian shall sign the disclosure form required by this section not later than the second visit with the psychotherapist.

12-43-215. Scope of article-exemptions.

(1) Any person engaged in the practice of religious ministry shall not be required to comply with the provisions of this article; except that such person shall not hold himself or herself out to the public by any title incorporating the terms "psychologist", "social worker", "licensed social worker", "LSW", "licensed clinical social worker", "clinical social worker", "LCSW", "licensed marriage and family therapist", "LMFT", "licensed professional counselor", "LPC", "addiction counselor", "licensed addiction counselor", "LAC", "certified addiction counselor", or "CAC" unless that person has been licensed or certified pursuant to this article.

(2) The provisions of this article shall not apply to the practice of employment or rehabilitation

counseling as performed in the private and public sectors; except that the provisions of this article shall apply to employment or rehabilitation counselors practicing psychotherapy in the field of mental health.

(3) The provisions of this article shall not apply to employees of the department of human services, employees of county departments of social services, or personnel under the direct supervision and control of the department of human services or any county department of social services for work undertaken as part of their employment.

(4) The provisions of this article shall not apply to persons who are licensed pursuant to section 22-60.5-210, C.R.S., and who are not licensed under this article for work undertaken as part of their employment by, or contractual agreement with, the public schools.

(5) Nothing in this section limits the applicability of section 18-3-405.5, C.R.S., which applies to any person while he or she is practicing psychotherapy as defined in this article.

(6) The provisions of this article shall not apply to mediators resolving judicial disputes pursuant to part 3 of article 22 of title 13, C.R.S.

(7) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1302, § 31, effective July 1, 2011.)

(8) The provisions of section 12-43-702.5 shall not apply to employees of community mental health centers or clinics as those centers or clinics are defined by section 27-66-101, C.R.S., but such persons practicing outside the scope of employment as employees of a facility defined by section 27-66-101, C.R.S., shall be subject to the provisions of section 12-43-702.5.

(9) The provisions of this article shall not apply to a person who resides in another state and who is currently licensed or certified as a psychologist, marriage and family therapist, clinical social worker, professional counselor, or addiction counselor in that state to the extent that the licensed or certified person performs activities or services in this state, if the activities and services are:

- (a) Performed within the scope of the person's license or certification;
- (b) Do not exceed twenty days per year in this state;
- (c) Are not otherwise in violation of this article; and
- (d) Disclosed to the public that the person is not licensed or certified in this state.

(10) The provisions of this article do not apply to a professional coach, including a life coach, executive coach, personal coach, or business coach, who has had coach-specific training and who serves clients exclusively as a coach, as long as the professional coach does not engage in the practice of psychology, social work, marriage and family therapy, licensed professional counseling, psychotherapy, or addiction counseling, as those practices are defined in this article.

12-43-216. Title use restrictions.

A psychologist, social worker, marriage and family therapist, professional counselor, or addiction counselor may only use the title for which he or she is licensed, certified, or registered under this article. Except as provided in section 12-43-306 (3), no other person shall hold himself or herself out to the public by any title or description of services incorporating the terms “licensed clinical social worker”, “clinical social worker”, “LCSW”, “licensed social worker”, “LSW”, “marriage and family therapist”, “LMFT”, “professional counselor”, “LPC”, “psychologist”, “psychologist candidate”, “psychology”, “psychological”, “addiction counselor”, “licensed addiction counselor”, “LAC”, “certified addiction counselor”, or “CAC”, and no other person shall state or imply that he or she is licensed to practice social work, marriage and family therapy, professional counseling, psychology, or addiction counseling. Nothing in this section shall prohibit a person from stating or using the educational degrees that such person has obtained.

12-43-217. Judicial review of final board actions and orders.

Final actions and orders of a board appropriate for judicial review may be judicially reviewed in the court of appeals, and judicial proceedings for the enforcement of a board order may be instituted in accordance with section 24-4-106 (11), C.R.S.

12-43-218. Disclosure of confidential communications.

(1) A licensee, registrant, or certificate holder shall not disclose, without the consent of the client, any confidential communications made by the client, or advice given to the client, in the course of professional employment. A licensee's, registrant's, or certificate holder's employee or associate, whether clerical or professional, shall not disclose any knowledge of said communications acquired in such capacity. Any person who has participated in any therapy conducted under the supervision of a licensee, registrant, or certificate holder, including group therapy sessions, shall not disclose any knowledge gained during the course of such therapy without the consent of the person to whom the knowledge relates.

(2) Subsection (1) of this section does not apply when:

(a) A client or the heirs, executors, or administrators of a client file suit or a complaint against a licensee, registrant, or certificate holder on any cause of action arising out of or connected with the care or treatment of the client by the licensee, registrant, or certificate holder;

(b) A licensee, registrant, or certificate holder was in consultation with a physician, registered professional nurse, licensee, registrant, or certificate holder against whom a suit or complaint was filed based on the case out of which said suit or complaint arises;

(c) A review of services of a licensee, registrant, or certificate holder is conducted by any of the following:

(I) A board or a person or group authorized by the board to make an investigation on its behalf;

(II) The governing board of a hospital licensed pursuant to part 1 of article 3 of title 25, C.R.S., where the licensee, registrant, or certificate holder practices or the medical staff of such hospital if the medical staff operates pursuant to written bylaws approved by the governing board of the hospital; or

(III) A professional review committee established pursuant to section 12-43-203 (11) if said person has signed a release authorizing such review.

(3) The records and information produced and used in the review provided for in paragraph (c) of subsection (2) of this section do not become public records solely by virtue of the use of the records and information. The identity of a client whose records are reviewed shall not be disclosed to any person not directly involved in the review process, and procedures shall be adopted by a board, hospital, association, or society to ensure that the identity of the client is concealed during the review process itself and to comply with section 12-43-224 (4).

(4) Subsection (1) of this section shall not apply to any delinquency or criminal proceeding, except as provided in section 13-90-107, C.R.S., regarding any delinquency or criminal proceeding involving a licensed psychologist.

(5) Nothing in this section shall be deemed to prohibit any other disclosures required by law.

(6) This section does not apply to covered entities, their business associates, or health oversight agencies, as each is defined in the federal "Health Insurance Portability and Accountability Act of 1996", as amended by the federal "Health Information Technology for Economic and Clinical Health Act", and the respective implementing regulations.

12-43-219. Article not to restrict other professions.

(1) Nothing in this article shall be construed to prohibit any member of any other profession who is duly licensed or certified pursuant to the laws of this state from rendering service consistent with his or her training and professional ethics so long as the professional does not hold himself or herself out to the public by any title or description to which such professional is not entitled pursuant to the provisions of this article.

(2) No person licensed pursuant to article 38 of this title shall be subject to the jurisdiction of a board created pursuant to this article to the extent such person is under the jurisdiction of the state board of nursing.

12-43-220. Data base of licensed and unlicensed psychotherapists-Violation-penalty-data collection-report to sunrise and sunset review committee-repeal. (Repealed).

12-43-221. Powers and duties of the boards-rules.

(1) In addition to all other powers and duties conferred and imposed upon the boards, as defined in section 12-43-201 (1), each board has the following powers and duties with respect to the licensing, registration, and certification of the persons licensed, registered, or certified by each individual board pursuant to this article:

(a) To annually elect one of its members as chairperson and one as vice-chairperson. Each board may meet at such times and adopt such rules for its government as it deems proper.

(b) (I) To make investigations, hold hearings, and take evidence in accordance with article 4 of title 24, C.R.S., and this article in all matters relating to the exercise and performance of the powers and duties vested in each board.

(II) Each board, or an administrative law judge acting on the board's behalf, may administer oaths, take affirmations of witnesses, and issue subpoenas to compel the attendance of witnesses and the production of all relevant papers, books, records, documentary evidence, and materials in any hearing, investigation, accusation, or other matter before the board. Each board may appoint an administrative law judge pursuant to part 10 of article 30 of title 24, C.R.S., to take evidence and to make findings and report them to the board pursuant to paragraph (e) of this subsection (1).

(III) Upon failure of a witness to comply with a subpoena or process, the district court of the county in which the subpoenaed person or licensee resides or conducts business, upon application by the board with notice to the subpoenaed person or licensee, may issue to the person or licensee an order requiring that person or licensee to appear before the board; to produce the relevant papers, books, records, documentary evidence, or materials if so ordered; or to give evidence touching the matter under investigation or in question. The court may punish the failure to obey the order of the court as a contempt of court.

(c) To aid the several district attorneys of this state in the enforcement of this article and in the prosecution of all persons, firms, associations, or corporations charged with the violation of any of its provisions and to report to the appropriate district attorney any violation of this article that it reasonably believes involves a criminal violation;

(d) To take disciplinary actions in conformity with this article;

(e) Through the department of regulatory agencies and subject to appropriations made to the department of regulatory agencies, to employ administrative law judges on a full-time or part-time basis to conduct any hearings required by this article. The administrative law judges shall be appointed pursuant to part 10 of article 30 of title 24, C.R.S.

(f) To notify the public of all disciplinary actions taken against licensees, registrants, or certificate

holders pursuant to this article.

(2) Pursuant to this part 2 and article 4 of title 24, C.R.S., each board is authorized to adopt and revise rules as necessary to enable the board to carry out the provisions of this part 2 with respect to the regulation of the persons licensed, registered, or certified by each individual board pursuant to this article.

12-43-221.5. Confidential agreement to limit practice-violation grounds for discipline.

(1) If a licensee, registrant, or certificate holder has a physical or mental illness or condition that renders the person unable to practice his or her mental health profession with reasonable skill and with safety to clients, the licensee, registrant, or certificate holder shall notify the board that regulates his or her profession of the illness or condition in a manner and within a period determined by his or her oversight board. The applicable board may require the licensee, registrant, or certificate holder to submit to an examination or refer the licensee, registrant, or certificate holder to a peer health assistance program, if such program exists, to evaluate the extent of the illness or condition and its impact on the licensee's, registrant's, or certificate holder's ability to practice with reasonable skill and with safety to clients.

(2) (a) Upon determining that a licensee, registrant, or certificate holder with a physical or mental illness or condition is able to render limited services with reasonable skill and with safety to clients, the applicable board may enter into a confidential agreement with the licensee, registrant, or certificate holder in which the licensee, registrant, or certificate holder agrees to limit his or her practice based on the restrictions imposed by the illness or condition, as determined by the applicable board.

(b) As part of the agreement, the licensee, registrant, or certificate holder is subject to periodic reevaluations or monitoring as determined appropriate by the applicable board. The board may refer the licensee, registrant, or certificate holder to a peer assistance health program, if one exists, for reevaluation or monitoring.

(c) The parties may modify or dissolve the agreement as necessary based on the results of a reevaluation or of monitoring.

(3) By entering into an agreement with the applicable board pursuant to this section to limit his or her practice, the licensee, registrant, or certificate holder is not engaging in activities prohibited pursuant to section 12-43-222. The agreement does not constitute a restriction or discipline by the applicable board. However, if the licensee, registrant, or certificate holder fails to comply with the terms of an agreement entered into pursuant to this section, the failure constitutes a prohibited activity pursuant to section 12-43-222 (1) (f), and the licensee, registrant, or certificate holder is subject to discipline in accordance with section 12-43-223.

(4) This section does not apply to a licensee, registrant, or certificate holder subject to discipline for prohibited activities as described in section 12-43-222 (1) (e).

12-43-222. Prohibited activities-related provisions

(1) A person licensed, registered, or certified under this article violates this article if the person:

(a) Has been convicted of or pled guilty or nolo contendere to a felony or received a deferred sentence to a felony charge. A certified copy of the judgment of a court of competent jurisdiction of such conviction or plea is conclusive evidence of the conviction or plea. In considering the disciplinary action, each board is governed by section 24-5-101, C.R.S.

(b) Has violated or attempted to violate, directly or indirectly, or assisted or abetted the violation of, or conspired to violate any provision or term of this article or rule promulgated pursuant to this article or any order of a board established pursuant to this article;

(c) Has used advertising that is misleading, deceptive, or false;

- (d) (I) Has committed abuse of health insurance pursuant to section 18-13-119, C.R.S.;
- (II) Has advertised through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that the person will perform any act prohibited by section 18-13-119, C.R.S.;
- (e) Habitually or excessively uses or abuses alcohol, a habit-forming drug, or a controlled substance, as defined in section 12-22-303;
- (f) (I) Fails to notify the board that regulates his or her profession of a physical or mental illness or condition that affects the person's ability to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under his or her care;
- (II) Fails to act within the limitations created by a physical or mental illness or condition that renders the person unable to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under his or her care; or
- (III) Fails to comply with the limitations agreed to under a confidential agreement entered pursuant to section 12-43-221.5;
- (g) (I) Has acted or failed to act in a manner that does not meet the generally accepted standards of the professional discipline under which the person practices. Generally accepted standards may include, at the board's discretion, the standards of practice generally recognized by state and national associations of practitioners in the field of the person's professional discipline.
- (II) A certified copy of a malpractice judgment of a court of competent jurisdiction is conclusive evidence that the act or omission does not meet generally accepted standards of the professional discipline, but evidence of the act or omission is not limited to a malpractice judgment.
- (h) Has performed services outside of such person's area of training, experience, or competence;
- (i) Has maintained relationships with clients that are likely to impair such person's professional judgment or increase the risk of client exploitation, such as treating employees, supervisees, close colleagues, or relatives;
- (j) Has exercised undue influence on the client, including the promotion of the sale of services, goods, property, or drugs in such a manner as to exploit the client for the financial gain of the practitioner or a third party;
- (k) Has failed to terminate a relationship with a client when it was reasonably clear that the client was not benefiting from the relationship and is not likely to gain such benefit in the future;
- (l) Has failed to refer a client to an appropriate practitioner when the problem of the client is beyond such person's training, experience, or competence;
- (m) Has failed to obtain a consultation or perform a referral when such failure is not consistent with generally accepted standards of care;
- (n) Has failed to render adequate professional supervision of persons practicing pursuant to this article under such person's supervision according to generally accepted standards of practice;
- (o) Has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons;
- (p) Has failed to comply with any of the requirements pertaining to mandatory disclosure of information to clients pursuant to section 12-43-214;
- (q) Has offered or given commissions, rebates, or other forms of remuneration for the referral of clients; except that a licensee, registrant, or certificate holder may pay an independent advertising or marketing agent compensation for advertising or marketing services rendered on the person's behalf by

such agent, including compensation that is paid for the results of performance of such services on a per-patient basis;

(r) Has engaged in sexual contact, sexual intrusion, or sexual penetration, as defined in section 18-3-401, C.R.S., with a client during the period of time in which a therapeutic relationship exists or for up to two years after the period in which such a relationship exists;

(s) Has resorted to fraud, misrepresentation, or deception in applying for or in securing licensure or taking any examination provided for in this article;

(t) Has engaged in any of the following activities and practices:

(I) Repeated ordering or performing demonstrably unnecessary laboratory tests or studies without clinical justification for the tests or studies;

(II) The administration, without clinical justification, of treatment that is demonstrably unnecessary;

(III) Ordering or performing any service or treatment that is contrary to the generally accepted standards of the person's practice and is without clinical justification;

(IV) Using or recommending rebirthing or any therapy technique that may be considered similar to rebirthing as a therapeutic treatment. "Rebirthing" means the reenactment of the birthing process through therapy techniques that involve any restraint that creates a situation in which a patient may suffer physical injury or death. For the purposes of this subparagraph (IV), a parent or legal guardian may not consent to physical, chemical, or mechanical restraint on behalf of a child or ward.

(u) Has falsified or repeatedly made incorrect essential entries or repeatedly failed to make essential entries on patient records;

(v) Has committed a fraudulent insurance act, as set forth in section 10-1-128, C.R.S.;

(w) Has sold or fraudulently obtained or furnished a license, registration, or certification to practice as a psychologist, social worker, marriage and family therapist, licensed professional counselor, psychotherapist, or addiction counselor or has aided or abetted in such activities; or

(x) Has failed to respond, in the manner required by the board, to a complaint filed with or by the board against the licensee, registrant, or certificate holder.

(2) A disciplinary action relating to a license, registration, or certification to practice a profession licensed, registered, or certified under this article or any related occupation in any other state, territory, or country for disciplinary reasons constitutes prima facie evidence of grounds for disciplinary action, including denial of licensure, registration, or certification, by a board. This subsection (2) applies only to disciplinary actions based upon acts or omissions in such other state, territory, or country substantially similar to those acts or omissions set out as grounds for disciplinary action pursuant to subsection (1) of this section.

12-43-223. Authority of boards-cease-and-desist orders-rules

(1) (a) If a licensee, registrant, or certificate holder violates any provision of section 12-43-222, the board that licenses, registers, or certifies the licensee, registrant, or certificate holder may:

(I) Deny, revoke, or suspend the person's license, registration, or certification;

(II) Deny, revoke, or suspend the listing of a registered psychotherapist in the state board of registered psychotherapists database;

(III) Issue a letter of admonition to a licensee, registrant, or certificate holder;

(IV) Issue a confidential letter of concern to a licensee, registrant, or certificate holder;

(V) Place a licensee, registrant, or certificate holder on probation; or

(VI) Apply for an injunction pursuant to section 12-43-227 to enjoin a licensee, registrant, or certificate holder from practicing the profession for which the person is licensed, registered, or certified under this article.

(b) When a licensee, registrant, or certificate holder violates an administrative requirement of this article, the board regulating the licensee, registrant, or certificate holder may impose an administrative fine on the licensee, registrant, or certificate holder, not to exceed five thousand dollars per violation. Each board shall adopt rules establishing a schedule of fines setting forth different levels of fines based on whether the licensee, registrant, or certificate holder has committed a single violation or subsequent violations of administrative requirements.

(2) (Deleted by amendment, L. 98, p. 1119, § 18, effective July 1, 1998.)

(3) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1287, § 15, effective July 1, 2011.)

(4) (a) If it appears to a board, based upon credible evidence as presented in a written complaint by any person, that a licensee or registrant is acting in a manner that is an imminent threat to the health and safety of the public, or a person is acting or has acted without the required license or registration, the board may issue an order to cease and desist such activity. The order shall set forth the statutes and rules alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all unlawful acts or unlicensed or unregistered practices immediately cease.

(b) Within ten days after service of the order to cease and desist pursuant to paragraph (a) of this subsection (4), the respondent may request a hearing on the question of whether acts or practices in violation of this article have occurred. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(5) (a) If it appears to a board, based upon credible evidence as presented in a written complaint by any person, that a person has violated any other portion of this article, then, in addition to any specific powers granted pursuant to this article, the board may issue to such person an order to show cause as to why the board should not issue a final order directing such person to cease and desist from the unlawful act or unlicensed or unregistered practice.

(b) A person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (5) shall be promptly notified by the board of the issuance of the order, along with a copy of the order, the factual and legal basis for the order, and the date set by the board for a hearing on the order. Such notice may be served by personal service, by first-class United States mail, postage prepaid, or as may be practicable upon any person against whom such order is issued. Personal service or mailing of an order or document pursuant to this subsection (5) shall constitute notice thereof to the person.

(c) (I) The hearing on an order to show cause shall be commenced no sooner than ten and no later than forty-five calendar days after the date of transmission or service of the notification by the board as provided in paragraph (b) of this subsection (5). The hearing may be continued by agreement of all parties based upon the complexity of the matter, number of parties to the matter, and legal issues presented in the matter, but in no event shall the hearing commence later than sixty calendar days after the date of transmission or service of the notification.

(II) If a person against whom an order to show cause has been issued pursuant to paragraph (a) of this subsection (5) does not appear at the hearing, a board may present evidence that notification was properly sent or served upon such person pursuant to paragraph (b) of this subsection (5) and such other evidence related to the matter as the board deems appropriate. The board shall issue the order within ten days after such board's determination related to reasonable attempts to notify the respondent, and the order shall become final as to that person by operation of law. Such hearing shall be conducted pursuant to sections 24-4-104 and 24-4-105, C.R.S.

(III) If a board reasonably finds that the person against whom the order to show cause was issued is acting or has acted without the required license or registration, or has or is about to engage in acts or practices constituting violations of this article, a final cease-and-desist order may be issued, directing such person to cease and desist from further unlawful acts or unlicensed or unregistered practices.

(IV) A board shall provide notice, in the manner set forth in paragraph (b) of this subsection (5), of the final cease-and-desist order within ten calendar days after the hearing conducted pursuant to this paragraph (c) to each person against whom the final order has been issued. The final order issued pursuant to subparagraph (III) of this paragraph (c) shall be effective when issued and shall be a final order for purposes of judicial review.

(6) If it appears to a board, based upon credible evidence presented to the board, that a person has engaged in or is about to engage in any unlicensed or unregistered act or practice, any act or practice constituting a violation of this article, any rule promulgated pursuant to this article, any order issued pursuant to this article, or any act or practice constituting grounds for administrative sanction pursuant to this article, the board may enter into a stipulation with such person.

(7) If any person fails to comply with a final cease-and-desist order or a stipulation, a board may request the attorney general or the district attorney for the judicial district in which the alleged violation exists to bring, and if so requested such attorney shall bring, suit for a temporary restraining order and for injunctive relief to prevent any further or continued violation of the final order.

(8) A person aggrieved by the final cease-and-desist order may seek judicial review of a board's determination or of a board's final order as provided in section 12-43-224 (5).

12-43-224. Disciplinary proceedings-judicial review-mental and physical examinations-multiple licenses.

(1) (a) A proceeding for discipline of a licensee, registrant, or certificate holder may be commenced when the board that licenses, registers, or certifies the licensee, registrant, or certificate holder has reasonable grounds to believe that the licensee, registrant, or certificate holder under the board's jurisdiction has committed any act or failed to act pursuant to the grounds established in section 12-43-222 or 12-43-226.

(b) A licensee, registrant, or certificate holder who holds more than one license, registration, or certification pursuant to this article, who has committed any act or failed to act pursuant to the grounds established in section 12-43-222 or 12-43-226, is subject to disciplinary action by all boards that license, register, or certify the person pursuant to this article. The findings, conclusions, and final agency order of the first board to take disciplinary action pursuant to this section against the licensee, registrant, or certificate holder, or any disciplinary action taken by the state grievance board as it existed prior to July 1, 1998, is prima facie evidence against the person in any subsequent disciplinary action taken by another board concerning the same act or series of acts.

(c) If a licensee, registrant, or certificate holder who applies for a license, registration, or certification pursuant to this article has been disciplined by any board created pursuant to this article, or the state grievance board as it existed prior to July 1, 1998, the findings, conclusions, and final agency order of the first board to take disciplinary action pursuant to this section against the licensee, registrant, or certificate holder is prima facie evidence against the person in any subsequent application made for a license, registration, or certification to any other board created pursuant to this article.

(2) (a) Disciplinary proceedings shall be conducted in the manner prescribed by the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(b) Each board, through the department of regulatory agencies, may employ administrative law judges, on a full-time or part-time basis, to conduct hearings as provided by this article or on any matter

within the board's jurisdiction upon such conditions and terms as such board may determine. A board may elect to refer a case for formal hearing to an administrative law judge, with or without an assigned advisor from such board. If a board so elects to refer a case with an assigned advisor and such advisor is a member of the board, the advisor shall be excluded from such board's review of the decision of the administrative law judge. The advisor shall assist the administrative law judge in obtaining and interpreting data pertinent to the hearing.

(c) (I) Except as provided in subparagraph (II) of this paragraph (c), a board shall not deny, revoke, or suspend a licensee's, registrant's, or certificate holder's right to use a title and shall not place a licensee, registrant, or certificate holder on probation pursuant to the grounds established in sections 12-43-222 and 12-43-226 until a hearing has been conducted if required pursuant to section 24-4-105, C.R.S.

(II) The board that licenses, registers, or certifies a licensee, registrant, or certificate holder pursuant to this article may summarily suspend the person's license, registration, or certification, subject to the limitation of section 24-4-104, C.R.S., under the following circumstances:

(A) In emergency situations, as provided for by section 24-4-104, C.R.S.;

(B) The licensee, registrant, or certificate holder has been adjudicated by a court of competent jurisdiction as being a person who is gravely disabled, mentally retarded, mentally incompetent, or insane or as a person with a mental illness by a court of competent jurisdiction; or

(C) The licensee, registrant, or certificate holder violates paragraph (e) of this subsection (2).

(d) If a board has reasonable cause to believe that a licensee, registrant, or certificate holder whom the board licenses, registers, or certifies pursuant to this article is unable to practice with reasonable skill and safety to patients, the board may require the licensee, registrant, or certificate holder to submit to mental or physical examinations designated by the board. Upon the failure of the licensee, registrant, or certificate holder to submit to a mental or physical examination, and unless the person shows good cause for such failure, the board may act pursuant to paragraph (c) of this subsection (2) or enjoin a licensee, registrant, or certificate holder pursuant to section 12-43-227 until the person submits to the required examinations.

(e) Every licensee, registrant, or certificate holder is deemed to have consented to submit to mental or physical examinations when directed in writing by the board that licenses, registers, or certifies the licensee, registrant, or certificate holder pursuant to this article and to have waived all objections to the admissibility of the examiner's testimony or examination reports on the ground of privileged communication.

(f) The results of any mental or physical examination ordered by a board may be used as evidence in any proceeding initiated by a board or within that board's jurisdiction in any forum.

(3) Disciplinary actions may consist of the following:

(a) **Revocation of a license, registration, or certification.** (I) Revocation of a license, registration, or certification by a board means that the licensee, registrant, or certificate holder shall surrender his or her license, registration, or certification.

(II) Any person whose license, registration, or certification to practice is revoked is ineligible to apply for any license, registration, or certification issued under this article for at least three years after the date of surrender of the license, registration, or certification. Any reapplication after such three-year period is treated as a new application.

(b) **Suspension of a license, registration, or certification.** Suspension of a license, registration, or certification by the board that licenses, registers, or certifies such licensee, registrant, or certificate holder pursuant to this article is for a period to be determined by the applicable board.

(c) **Probationary status.** A board may impose probationary status on a licensee, registrant, or certificate holder. If a board places a licensee, registrant, or certificate holder on probation, it may include conditions for continued practice that the board deems appropriate to assure that the licensee, registrant, or certificate holder is physically, mentally, and otherwise qualified to practice in accordance with generally accepted professional standards of practice, including any of the following:

(I) Submission by the licensee, registrant, or certificate holder to examinations a board may order to determine the person's physical or mental condition or professional qualifications;

(II) Participation in therapy or courses of training or education the board determines necessary to correct deficiencies found either in the hearing or by such examinations;

(III) Review or supervision of the person's practice as may be necessary to determine the quality of, and correct any deficiencies in, that practice; and

(IV) The imposition of restrictions upon the nature of the person's practice to assure that he or she does not practice beyond the limits of his or her capabilities.

(d) **Issuance of letters of admonition.** (I) When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, does not warrant formal action by the board but that should not be dismissed as being without merit, a letter of admonition may be issued and sent, by certified mail, to the licensee, registrant, or certificate holder.

(II) When a letter of admonition is sent by the board, by certified mail, to a licensee, registrant, or certificate holder, the letter also must advise the person that he or she has the right to request, in writing within twenty days after receipt of the letter, that formal disciplinary proceedings be initiated to adjudicate the propriety of the conduct upon which the letter of admonition is based.

(III) If the request for adjudication is timely made, the letter of admonition is vacated and the matter shall be processed by means of formal disciplinary proceedings.

(e) **Issuance of confidential letters of concern.** When a complaint or investigation discloses an instance of conduct that does not warrant formal action by the board but indicates to the board conduct by the licensee, registrant, or certificate holder that could lead to serious consequences if not corrected, the board may issue and send to the licensee, registrant, or certificate holder a confidential letter of concern. The letter must advise the licensee, registrant, or certificate holder that the board is concerned about a complaint it received about the licensee, registrant, or certificate holder and must specify what action, if any, the licensee, registrant, or certificate holder should take to assuage the board's concern. Confidential letters of concern are confidential, and the board shall not disclose the existence of such a letter or its contents to members of the public or in any court action unless the board is a party to the action.

(f) **Deferred settlement or judgment.** When a complaint or investigation discloses an instance of misconduct that, in the opinion of the board, warrants formal action, the complaint shall not be resolved by a deferred settlement, action, judgment, or prosecution.

(4) (a) Except as provided in paragraph (b) of this subsection (4), if a complaint is dismissed, records of investigations, examinations, hearings, meetings, and other proceedings of the board conducted pursuant to this section are exempt from the open records law, article 72 of title 24, C.R.S.

(b) The exemption from the open records law specified in paragraph (a) of this subsection (4) does not apply:

(I) When a decision to proceed with a disciplinary action has been agreed upon by a majority of the members of the applicable board and a notice of formal complaint is drafted and served on the licensee, registrant, or certificate holder by first-class mail; or

(II) Upon final agency action.

(c) In any final agency action or formal complaint, the board, when it deems necessary, shall redact all names of clients or other recipients of services to protect such persons' confidentiality.

(5) Final board actions and orders appropriate for judicial review may be judicially reviewed in the court of appeals, and judicial proceedings for the enforcement of a board order may be instituted in accordance with section 24-4-106 (11), C.R.S.

(6) (Deleted by amendment, L. 98, p. 1120, § 18, effective July 1, 1998.)

(7) Any board member having an immediate personal, private, or financial interest in any matter pending before the board shall disclose the fact to the board and shall not vote upon such matter.

(8) Any licensee, registrant, or certificate holder against whom a malpractice claim is settled or a judgment rendered in a court of competent jurisdiction shall notify the board that licenses, registers, or certifies the licensee, registrant, or certificate holder pursuant to this article of the judgment or settlement within sixty days after the disposition.

(9) Any licensee, registrant, or certificate holder who has direct knowledge that a licensee, registrant, or certificate holder has violated section 12-43-222 or 12-43-226 has a duty to report the violation to the board that licenses, registers, or certifies the licensee, registrant, or certificate holder pursuant to this article unless reporting the violation would violate the prohibition against disclosure of confidential information without client consent pursuant to section 12-43-218.

12-43-225. Reconsideration and review of action of a board.

A board, on its own motion or upon application, at any time after the imposition of any discipline as provided in section 12-43-224, may reconsider its prior action and reinstate or restore such license, registration, or certification; terminate probation; or reduce the severity of its prior disciplinary action. The board has sole discretion to determine whether to take further action or hold a hearing with respect to its prior disciplinary action.

12-43-226. Unauthorized practice-penalties.

(1) Repealed.

(2) Any person who practices or offers or attempts to practice as a psychologist, social worker, marriage and family therapist, licensed professional counselor, psychotherapist, or addiction counselor without an active license, registration, or certification issued under this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense. Any person who commits a second or any subsequent offense commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(3) Repealed.

(4) No action may be maintained for the breach of a contract involving the unlawful practice of psychology, social work, professional counseling, marriage and family therapy, addiction counseling, or psychotherapy or for the recovery of compensation for services rendered under such a contract.

(5) When an individual has been the recipient of services prohibited by this article, whether or not such person knew that the rendition of the services were unlawful:

(a) Such person or such person's personal representative is entitled to recover the amount of any fee paid for the services; and

(b) Damages for injury or death occurring as a result of the services may be recovered in an appropriate action without any showing of negligence.

12-43-227. Injunctive proceedings.

(1) A board may, in the name of the people of the state of Colorado, through the attorney general of the state of Colorado, apply for an injunction in any court of competent jurisdiction:

(a) To enjoin any person licensed, registered, or certified by that board pursuant to this article from committing any act prohibited by this article;

(b) To enjoin a licensee, registrant, or certificate holder regulated by that board from practicing the profession for which the person is licensed, registered, or certified under this article if the person has violated section 12-43-224 (2) (d) or 12-43-222.

(c) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1309, § 37, effective July 1, 2011.)

(2) If the board demonstrates that the defendant has been or is committing any act prohibited by this article, the court shall enter a decree perpetually enjoining the defendant from further committing the act or from practicing any profession licensed, registered, or certified pursuant to this article.

(3) Injunctive proceedings are in addition to, and not in lieu of, penalties and other remedies provided in this article.

(4) When seeking an injunction under this section, a board is not required to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from a continued violation.

12-43-227.5. Mental health professional peer health assistance program-fees-administration-rules.

(1) (a) On and after July 1, 2012, as a condition of licensure, registration, or certification and renewal in this state, every person applying for a new license, registration, or certification or to renew his or her license, registration, or certification shall pay a fee, for use by the administering entity selected by the director pursuant to this subsection (1), in an amount not to exceed twenty-five dollars per application for a new or to renew a license, registration, or certification. The director may adjust the maximum fee amount on January 1, 2013, and annually thereafter to reflect changes in the United States bureau of statistics consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers or goods, or its successor index. The fee shall be forwarded to the chosen administering entity for use in supporting designated providers selected to provide assistance to licensees, registrants, or certificate holders needing help in dealing with physical, emotional, or psychological conditions that may be detrimental to their ability to practice their mental health profession.

(b) The director, in consultation with the boards, shall select one or more peer health assistance programs as designated providers. For purposes of selecting designated providers, the director shall use a competitive bidding process that encourages participation from interested vendors. To be eligible for designation, a peer health assistance program must:

(I) Provide for the education of mental health professionals with respect to the recognition and prevention of physical, emotional, and psychological conditions and provide for intervention when necessary or under circumstances established by the board by rule;

(II) Offer assistance to a mental health professional in identifying physical, emotional, or psychological conditions;

(III) Evaluate the extent of physical, emotional, or psychological conditions and refer the mental health professional for appropriate treatment;

(IV) Monitor the status of a mental health professional who has been referred for treatment;

(V) Provide counseling and support for the mental health professional and for the family of any mental health professional referred for treatment;

(VI) Agree to receive referrals from the board; and

(VII) Agree to take its services available to all licensed, registered, or certified mental health professionals.

(c) The director may select an entity to administer the mental health professional peer assistance program. An administering entity must be a nonprofit private foundation that is qualified under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended, and that is dedicated to providing support for charitable, benevolent, educational, and scientific purposes that are related to mental health professions, mental health professional education, mental health research and science, and other mental health charitable purposes.

(d) The administering entity shall:

(I) Distribute the moneys collected by the division, less expenses, to the designated provider, as directed by the director;

(II) Provide an annual accounting to the division of all amounts collected, expenses incurred, and amounts disbursed; and

(III) Post a surety performance bond in an amount specified by the director to secure performance under the requirements of this section. The administering entity may recover the actual administrative costs incurred in performing its duties under this section in an amount not to exceed ten percent of the total amount collected.

(e) The division shall collect the required annual payments payable to the administering entity for the benefit of the administering entity and shall transfer all such payments to the administering entity. All required annual payments collected or due for each fiscal year are custodial funds that are not subject to appropriation by the general assembly, and the distribution of payments to the administering entity or expenditure of the payments by the administering entity does not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution.

(2) (a) Any mental health professional who is referred by the applicable board to a peer health assistance program shall enter into a stipulation with the board pursuant to section 12-43-223(6) before participating in the program. The agreement must contain specific requirements and goals to be met by the participant, including the conditions under which the program will be successfully completed or terminated, and a provision that a failure to comply with the requirements and goals are to be promptly reported to the board and that such failure will result in disciplinary action by the board.

(b) Notwithstanding sections 12-43-223, 12-43-224, and 24-4-104, C.R.S., the applicable board may immediately suspend the license of any mental health professional who is referred to a peer health assistance program by the board and who fails to attend or to complete the program. If the mental health professional objects to the suspension, he or she may submit a written request to the board for a formal hearing on the suspension within ten days after receiving notice of the suspension, and the board shall grant the request. In the hearing, the mental health professional bears the burden of proving that his or her license, registration, or certification should not be suspended.

(c) Any mental health professional who self-refers and is accepted into a peer health assistance program shall affirm that, to the best of his or her knowledge, information, and belief, he or she knows of no instance in which he or she has violated this article or the rules of the board, except in those instances affected by the mental health professional's physical, emotional, or psychological conditions.

(3) Nothing in this section creates any liability on the director, division, or state of Colorado for their actions in making grants to peer assistance programs, and no civil action may be brought or maintained against the board, director, division, or state for an injury alleged to have been the result of the activities of any state-funded peer assistance program or the result of an act or omission of a mental health

professional participating in or referred by a state-funded peer assistance program. However, the state remains liable under the “Colorado Governmental Immunity Act”, article 10 of title 24, C.R.S., if an injury alleged to have been the result of an act or omission of a mental health professional participating in or referred by a state-funded peer assistance program occurred while such mental health professional was performing duties as an employee of the state.

(4) The boards may promulgate rules necessary to implement this section. The boards and the director shall seek and obtain input from representatives of each type of mental health professional regulated under this article in the development of the peer health assistance program and related rules.

(5) As used in this section, “mental health professional” means a psychologist, social worker, marriage and family therapist, licensed professional counselor, psychotherapist, or addiction counselor regulated under this article.

12-43-228. Minimum standards for testing.

(1) Every person licensed, registered, or certified under this article must meet the minimum professional preparation standards set forth in this section to engage in the administration, scoring, or interpretation of the following levels of psychometric or electrodiagnostic testing:

(a) **General use.** There is no educational or experience minimum necessary for a licensee, registrant, or certificate holder to administer standardized personnel selection, achievement, general aptitude, or proficiency tests.

(b) **Technical use.** A master's degree in anthropology, psychology, counseling, marriage and family therapy, social work, or sociology from a regionally accredited university or college certified by the accrediting agency or body to award graduate degrees and completion of at least one graduate level course each in statistics, psychometric measurement, theories of personality, individual and group test administration and interpretation, and psychopathology is required in order to administer, score, or interpret tests that require technical knowledge of test construction and use or require the application of scientific and psychophysiological knowledge. Such tests include, but are not limited to, tests of general intelligence, special aptitudes, temperament, values, interests, and personality inventories.

(c) **Advanced use.** A licensee, registrant, or certificate holder must meet all the requirements of paragraph (b) of this subsection (1) and, in addition, completion, at a regionally accredited university or college certified by the accrediting agency or body to award graduate degrees, of at least one graduate-level course in six of the following areas: Cognition, emotion, attention, sensory-perceptual function, psychopathology, learning, encephalopathy, neuropsychology, psychophysiology, personality, growth and development, projective testing, and neuropsychological testing and completion of one year of experience in advanced use practice under the supervision of a person fully qualified under this paragraph (c) in order to practice projective testing, neuropsychological testing, or use of a battery of three or more tests to:

(I) Determine the presence, nature, causation, or extent of psychosis, dementia, amnesia, cognitive impairment, influence of deficits on competence, and ability to function adaptively;

(II) Determine the etiology or causative factors contributing to psychological dysfunction, criminal behavior, vocational disability, neurocognitive dysfunction, or competence; or

(III) Predict the psychological responses to specific medical, surgical, and behavioral interventions.

(2) The board licensing, registering, or certifying any person violating this section may bring disciplinary proceedings or injunctive proceedings against the person pursuant to section 12-43-224 or 12-43-227.

(3) (Deleted by amendment, L. 2011, (SB 11-87), ch. 285, p. 1310, § 38, effective July 1, 2011.)

12-43-229. Repeal of article.

(1) This article is repealed, effective September 1, 2020. Prior to such repeal, all of the boards relating to the licensing, registration, or certification of and grievances against any person licensed, registered, or certified pursuant to this article shall be reviewed as provided for in section 24-34-104, C.R.S.

(2) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1274, § 1, effective July 1, 2011.)

PART 3 PSYCHOLOGISTS

12-43-301. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) “Approved school” means any university or other institution of higher education offering a full-time graduate course of study in psychology and having programs approved by the American psychological association or the board.

(2) “Board” means the state board of psychologist examiners created by section 12-43-302 (1).

(3) Repealed.

(4) “License” means a certificate of licensure as a licensed psychologist.

(5) Repealed.

(6) “Licensed psychologist” means a person licensed under this part 3.

(7) Repealed.

(8) “Professional psychological training program” means a doctoral training program that:

(a) Is a planned program of study that reflects an integration of the science and practice of psychology; and

(b) For applicants receiving their terminal degrees after 1990, is designated as a doctoral program in psychology by the association of state and provincial psychology boards or the national register of health service providers in psychology, or is accredited by the American psychological association or Canadian psychological association.

12-43-302. State board of psychologist examiners.

(1) There is hereby created a state board of psychologist examiners under the supervision and control of the division of registrations of the department of regulatory agencies, created in section 24-1-122 (2) (g), C.R.S.

(2) The board consists of seven members who are citizens of the United States and residents of the state of Colorado as follows:

(a) Four board members must be licensed psychologists, at least two of whom shall be engaged in the direct practice of psychology; except that, if, after a good-faith attempt, the governor determines that an applicant for membership on the board pursuant to this paragraph (a) who is engaged in the direct practice of psychology is not available to serve on the board for a particular term, the governor may appoint a licensed psychologist who is not engaged in the direct practice of psychology.

(b) Three board members must be representatives of the general public, one of whom may be a mental health consumer or family member of a mental health consumer. These individuals must have never been psychologists, applicants or former applicants for licensure as psychologists, members of another mental health profession, or members of households that include psychologists or members of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with their duties as board members.

(3) (Deleted by amendment, L. 2007, p. 130, § 1, effective Aug. 3, 2007.)

(4) (a) Each board member shall hold office until the expiration of such member's appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (4), the term of each member shall be four years, and no board member shall serve more than two full consecutive terms. Any vacancy occurring in board membership other than by expiration of a term shall be filled by the governor by appointment for the unexpired term of such member.

(b) The terms of office of the members on the board are modified as follows in order to ensure staggered terms of office:

(I) The second term of office of the licensed psychologist board member and one of the two board members representing the general public, whose second term would otherwise expire on June 30, 2010, shall expire on May 31, 2008, and the governor shall appoint one new licensed psychologist and one new representative of the general public to serve terms as described in paragraph (a) of this subsection (4) commencing on June 1, 2008.

(II) The initial term of office of the one board member representing the general public whose initial term would otherwise expire on June 30, 2009, shall expire on May 31, 2009, and the board member is eligible to serve one additional four-year term commencing on June 1, 2009, and expiring on May 31, 2013. On and after the expiration of this board member's term or a vacancy in this position, the governor shall appoint a licensed psychologist to this position on the board, who is eligible to serve terms as described in paragraph (a) of this subsection (4) commencing on June 1 of the applicable year.

(III) The initial term of office of one of the two licensed psychologist board members whose initial term would otherwise expire on June 30, 2010, shall expire on May 31, 2009. This board member shall be eligible to serve one additional four-year term, commencing on June 1, 2009, and expiring on May 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on June 1 of the applicable year.

(IV) The initial terms of office of the remaining licensed psychologist board member and the other board member representing the general public, whose initial terms would otherwise expire on June 30, 2010, shall expire on May 31, 2010. Each of these board members shall be eligible to serve one additional four-year term commencing on June 1, 2010, and expiring on May 31, 2014. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on June 1 of the applicable year.

(V) The second term of office of the remaining board member representing the general public whose second term would otherwise expire on June 30, 2010, shall expire on May 31, 2010. The governor shall appoint one new representative of the general public to serve terms as described in paragraph (a) of this subsection (4) commencing on June 1, 2010.

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-303. Practice of psychology defined.

(1) For the purposes of this part 3, the “practice of psychology” means the observation, description, evaluation, interpretation, or modification of human behavior by the application of psychological principles, methods, or procedures, for the purpose of:

(a) Preventing, eliminating, evaluating, assessing, or predicting symptomatic, maladaptive, or undesired behavior;

(b) Evaluating, assessing, or facilitating the enhancement of individual, group, or organizational effectiveness, including personal effectiveness, adaptive behavior, interpersonal relationships, work and life adjustment, health, and individual, group, or organizational performance; or

(c) Providing clinical information to be utilized in legal proceedings.

(2) The practice of psychology includes:

(a) Psychological testing and the evaluation or assessment of personal characteristics such as intelligence; personality; cognitive, physical, or emotional abilities; skills; interests; aptitudes; and neuropsychological functioning;

(b) Counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy;

(c) Diagnosis, treatment, and management of mental and emotional disorder or disability, substance use disorders, disorders of habit or conduct, as well as of the psychological aspects of physical illness, accident, injury, or disability;

(d) Psychoeducational evaluation, therapy, and remediation;

(e) Consultation with physicians, other health care professionals, and patients regarding all available treatment options with respect to provision of care for a specific patient or client;

(f) The provision of direct services to individuals or groups for the purpose of enhancing individual and thereby organizational effectiveness, using psychological principles, methods, or procedures to assess and evaluate individuals on personal characteristics for individual development or behavior change or for making decisions about the individual, such as selection; and

(g) The supervision of any of the practices described in this subsection (2).

(h) to (l) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1311, § 41, effective July 1, 2011.)

(3) Psychological services may be rendered to individuals, families, groups, organizations, institutions, the public, and the courts.

(4) The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered.

12-43-304. Qualifications-examinations-licensure.

(1) The board shall issue a license as a psychologist to each applicant who files an application in a form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and furnishes evidence satisfactory to the board that he or she:

(a) Is at least twenty-one years of age;

(b) Is not in violation of any provision of this article or any rules promulgated by the board;

(c) Holds a doctorate degree with a major in psychology, or the equivalent to such major as

determined by the board, from an approved school;

(d) Has had at least one year of postdoctoral experience practicing psychology under supervision approved by the board; and

(e) Demonstrates professional competence by passing a single, written examination in psychology as prescribed by the board and a jurisprudence examination administered by the division.

(1.5) (a) The examination by the board described in paragraph (e) of subsection (1) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(b) The examination shall test for knowledge of the following three areas:

(I) General psychology;

(II) Clinical and counseling psychology; and

(III) Application of the practice of clinical and counseling psychology, including knowledge of appropriate statutes and professional ethics.

(c) The board or its designated representatives shall administer and determine the pass or fail status of the examination and take any actions necessary to ensure impartiality. The board shall determine the passing score for the examination based upon a level of minimum competency to engage in the practice of psychology.

(2) to (6) (Deleted by amendment, L. 2007, p. 137, § 1, effective, July 1, 2007.)

(7) (a) The board shall register as a psychologist candidate a person who files an application for registration, accompanied by the fee required by section 12-43-204, and who:

(I) Submits evidence satisfactory to the board that he or she has met the requirements of paragraphs (a), (b), and (c) of subsection (1) of this section; and

(II) Has not been previously registered as a psychologist candidate by the board.

(b) A psychologist candidate registered pursuant to this subsection (7) is not required to register with the database of registered psychotherapists pursuant to section 12-43-702.5, and is under the jurisdiction of the state board of psychologist examiners. If the requirements of paragraphs (d) and (e) of subsection (1) of this section are not met within four years, the registration of the psychologist candidate expires and is not renewable unless the board, in its discretion, grants the candidate an extension. A person whose psychologist candidate registration expires is not precluded from applying for licensure or registration with any other mental health board for which the person is qualified.

12-43-305. Rights and privileges of licensure.

(1) Any person who possesses a valid, unsuspended, and unrevoked license as a licensed psychologist has the right to:

(a) Engage in the private, independent practice of psychology;

(b) Practice and supervise psychology practice; and

(c) Use the title “psychologist” and the terms “psychology” and “psychological”. No other person may assume these titles or use these terms on any work or letter, sign, figure, or device to indicate that the person using such title or terms is a licensed psychologist.

(2) Any person duly licensed as a psychologist shall not be required to obtain any other license or certification to practice psychology as defined in section 12-43-303 unless otherwise required by the board.

12-43-306. Exemptions.

(1) Nothing in this part 3 shall be construed to prevent the teaching of psychology, or the conduct of psychological research, if such teaching or research does not involve the delivery or supervision of direct psychological services to individuals who are themselves, rather than a third party, the intended beneficiaries of such services without regard to the source or extent of payment for services rendered. Nothing in this part 3 shall prevent the provision of expert testimony by psychologists who are exempted by this part 3. Persons holding an earned doctoral degree in psychology from an approved school may use the title “psychologist” in conjunction with the activities permitted in this subsection (1).

(2) Nothing in this part 3 shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice as set out in the statutes regulating their professional practices so long as they do not represent themselves to be psychologists or their services as psychological.

(3) The use of the title “psychologist” may be continued by an unlicensed person who, as of July 1, 1982, is employed by a state, county, or municipal agency or by other political subdivisions or any educational institution chartered by the state, but only so long as such person remains in the employment of the same institution or agency and only in the course of conducting duties for such agency or institution.

(4) Nothing in this part 3 shall be construed to limit the use of an official title on the part of any doctoral level graduate of a research psychology program or an industrial or organizational psychology program from a regionally accredited university while engaged in the conduct of psychological research or the provision of psychological consultation to organizations or institutions if such services do not include the clinical practice of psychology.

(5) Nothing in this part 3 shall be construed to require the new regulation of any occupational or professional group that is not currently subject to regulation under state law.

(6) Nothing in this part 3 prevents the practice of psychotherapy by persons registered with the state board of registered psychotherapists pursuant to section 12-43-702.5.

(7) No person may engage in the practice of psychology as a psychologist, or refer to himself or herself as a psychologist, unless such person is licensed pursuant to this part 3.

PART 4 SOCIAL WORKERS

12-43-401. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) “Approved school” means any university or other institution of higher education offering a full-time undergraduate course of study in social work approved by the council on social work education or its predecessor organization.

(2) “Board” means the state board of social work examiners, created in section 12-43-402.

(3) Repealed.

(4) “Clinical social work practice” shall have the same meaning as “social work practice” as defined in section 12-43-403.

(5) "Graduate school of social work" means any university or other institution of higher education offering a full-time graduate course of study in social work approved by the council on social work education or its predecessor organization.

(5.5) "Independent practice" means practicing independent of supervision.

(6) "Independent private practice" means a practice charging a fee in a setting other than under the auspices of a public or private nonprofit agency exempt from federal income tax under section 501 (c) (3) of the federal "Internal Revenue Code of 1986", as amended.

(7) "Licensed clinical social worker" means any person licensed under the provisions of this part 4 as a clinical social worker.

(8) "Licensed social worker" means a person licensed under this part 4 as a licensed social worker.

(9) Repealed.

(10) (Deleted by amendment, L. 2004, p. 912, § 10, effective July 1, 2004.)

(11) "Social worker" means a person who possesses an earned master's or bachelor's degree in social work from a social work education program accredited by the council on social work education, or a doctoral degree in social work from a doctoral program within a social work education program accredited by the council on social work education, and who is practicing within the scope of section 12-43-403.

12-43-402. State board of social work examiners.

(1) There is hereby created under the supervision and control of the division of registrations of the department of regulatory agencies the state board of social work examiners, which shall consist of seven members who are citizens of the United States and residents of the state of Colorado.

(2) (a) Four board members shall be licensed clinical social workers, at least two of whom shall be engaged in direct social work practice; except that, if, after a good-faith attempt, the governor determines that an applicant for membership on the board pursuant to this paragraph (a) who is engaged in direct social work practice is not available to serve on the board for a particular term, the governor may appoint a licensed clinical social worker who is not engaged in direct social work practice.

(b) Three board members shall be representatives of the general public. These individuals shall have never been a social worker, an applicant or former applicant for licensure as a social worker, a member of another mental health profession, or a member of a household that includes a social worker or a member of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with his or her duties as a board member.

(3) (a) Each board member shall hold office until the expiration of such member's appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (3), the term of each member shall be four years, and no board member shall serve more than two full consecutive terms. Any vacancy occurring in board membership other than by expiration of a term shall be filled by the governor by appointment for the remainder of the unexpired term of such member.

(b) The terms of office of the members on the board are modified as follows in order to ensure staggered terms of office:

(I) The second term of office of one of the two licensed clinical social worker board members who, as of July 25, 2010, would have served two four-year terms shall expire on June 30, 2008, and the governor shall appoint a new licensed clinical social worker to serve terms as described in paragraph (a) of this subsection (3) commencing on July 1, 2008.

(II) The initial term of office of one of the board members representing the general public whose

initial term would otherwise expire on July 25, 2010, expires on June 30, 2008, and the board member is eligible to serve one additional four-year term commencing on July 1, 2008, and expiring on June 30, 2012. On and after the expiration of this board member's term or a vacancy in this position, the governor shall appoint a licensed clinical social worker to this position on the board, who is eligible to serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(III) The term of office of the one member representing the general public who, as of July 25, 2009, would have served one full four-year term and one partial four-year term shall expire on June 30, 2009, and the member shall be eligible to serve one additional four-year term commencing on July 1, 2009, and expiring on June 30, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(IV) The term of office of the one licensed clinical social worker board member who, as of July 25, 2010, would have served one full four-year term and one partial four-year term shall expire on June 30, 2009, and the board member shall be eligible to serve one additional four-year term commencing on July 1, 2009, and expiring on June 30, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(V) The initial terms of office of the one remaining licensed clinical social worker board member and the two remaining board members representing the general public whose initial terms would otherwise expire on July 25, 2010, shall expire on June 30, 2010, and each of these board members shall be eligible to serve one additional four-year term, commencing on July 1, 2010, and expiring on June 30, 2014. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (3) commencing on July 1 of the applicable year.

(4) (Deleted by amendment, L. 2007, p. 132, § 2, effective Aug. 3, 2007.)

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

(7) When professional judgment specific to clinical practice is required in the review of alleged violations of section 12-43-222, the board may appoint an advisory committee of clinical practitioners to review and make recommendations to the board.

12-43-403. Social work practice defined.

(1) For the purposes of this part 4, "social work practice" means the professional application of social work theory and methods by a graduate with a master's degree in social work or a doctoral degree in social work or a bachelor's degree in social work from an accredited social work program, for the purpose of prevention, assessment, diagnosis, and intervention with individual, family, group, organizational, and societal problems, including alcohol and substance abuse and domestic violence, based on the promotion of biopsychosocial developmental processes, person-in environment transactions, and empowerment of the client system. Social work theory and methods are based on known accepted principles that are taught in professional schools of social work in colleges or universities accredited by the council on social work education.

(2) Professional social work practice may include, but is not limited to:

(a) Assessment;

- (b) Differential diagnosis;
- (c) Treatment planning and evaluation;
- (d) Measurement of psychosocial functioning;
- (e) Crisis intervention, out-reach, short- and long-term treatment;
- (f) Therapeutic, individual, marital, and family interventions;
- (g) Client education;
- (h) Case management;
- (i) Mediation;
- (j) Advocacy;
- (k) Discharge, referral, and continuity of care planning and implementation;
- (l) Consultation;
- (m) Supervision;
- (n) Research;
- (o) Management and administration;
- (p) Program evaluation and education;
- (q) Social group work;
- (r) Community organization and development;
- (s) Social policy analysis and development;
- (t) Psychotherapy;
- (u) Consultation, supervision, and teaching in higher education; and
- (v) Counseling.

(3) Social work practice may take place in a public or private agency or institutional, educational, or independent setting.

(4) Social work practice is directly based upon an advanced educational program that teaches the practitioner to analyze, intervene, and evaluate in ways that are highly differentiated, discriminating, and self-critical. A practitioner must be able to synthesize and apply a broad range of knowledge as well as practice with a high degree of autonomy and skill. A practitioner must be able to refine and advance the quality of his or her practice as well as that of the larger social work profession. These advanced competencies must be appropriately integrated and reflected in all aspects of a social work practice, including the ability to:

(a) Apply critical thinking skills within professional contexts, including synthesizing and applying appropriate theories and knowledge to practice interventions;

(b) Practice within the values and ethics of the social work profession and with an understanding of, and respect for, the positive value of diversity;

(c) Demonstrate the professional use of self;

(d) Understand the forms and mechanisms of oppression and discrimination and the strategies and skills of change that advance social and economic justice;

(e) Understand and interpret the history of the social work profession and its current structure and

issues;

(f) Apply the knowledge and skills of a generalist social work perspective to practice with systems of all sizes;

(g) Apply the knowledge and skills of advanced social work practice in an area of concentration;

(h) Critically analyze and apply knowledge of biopsychosocial variables that affect an individual's development and behavior and use theoretical frameworks to understand the interactions among and between individuals and social systems;

(i) Analyze the impact of social policies on client systems, workers, and agencies and demonstrate skills for influencing policy formulation and change;

(j) Evaluate relevant research studies and apply findings to practice, and demonstrate skills in quantitative research design, data analysis, and knowledge dissemination;

(k) Conduct empirical evaluations of their own practice interventions and those of other relevant systems; and

(l) Use communication skills differentially with a variety of client populations, colleagues, and members of the community.

12-43-404. Qualifications-examination-licensure and registration.

(1) The board shall license as a licensed social worker any person who files an application in a form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and submits evidence satisfactory to the board that he or she:

(a) Is at least twenty-one years of age;

(b) Has obtained a master's degree from a graduate school of social work; and

(c) Demonstrates professional competence by satisfactorily passing an examination in social work as prescribed by the board and a jurisprudence examination administered by the division.

(2) The board shall license as a licensed clinical social worker any person who files an application, in a form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and submits evidence satisfactory to the board that he or she:

(a) Is at least twenty-one years of age;

(b) Has obtained a master's or doctorate degree from a graduate school of social work;

(c) Has practiced social work for at least two years under the supervision of a licensed clinical social worker, which practice includes training and work experience in the area of clinical social work practice; and

(d) Demonstrates professional competence by satisfactorily passing an examination in social work as prescribed by the board and a jurisprudence examination administered by the division.

(2.5) (a) The board or its designated representative shall give the examination described in paragraph (c) of subsection (1) of this section and in paragraph (d) of subsection (2) of this section at least twice per year at a time and place and under the supervision determined by the board.

(b) The board or its designated representatives shall administer and determine the pass or fail status of the examination and take any actions necessary to ensure impartiality. The board shall determine the passing score for the examination based upon a level of minimum competency to engage in social work practice.

(3) (Deleted by amendment, L. 2004, p. 914, § 13, effective July 1, 2004.)

(4) to (6) (Deleted by amendment, L. 2007, p. 138, § 2, effective July 1, 2007.)

(7) (Deleted by amendment, L. 2004, p. 914, § 13, effective July 1, 2004.)

12-43-405. Rights and privileges of licensure and a social work degree.

(1) Any person who possesses a valid, unsuspended, and unrevoked license as a social worker that was issued pursuant to section 12-43-404 has the right to practice social work under supervision and use the title “licensed social worker”, “social worker”, and the abbreviation “LSW”. No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed social worker or a social worker.

(2) Any person who possesses a valid, unsuspended, and unrevoked license as a clinical social worker that was granted pursuant to section 12-43-404 is entitled to engage in the private, independent practice of clinical social work and has the right to practice and supervise clinical social work practice and use the title “licensed clinical social worker”, “clinical social worker”, “social worker”, or “licensed social worker”, and the abbreviation “LCSW”. No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed clinical social worker or social worker.

(3) (a) (Deleted by amendment, L. 2005, p. 128, § 8, effective August 8, 2005.)

(b) Any person engaged in providing medically related social services in skilled nursing or nursing care facilities shall not be subject to the requirements of this article so long as that person meets the qualifications of, and provides services in accordance with, the federal regulations governing the medicare and medicaid program participation of these facilities and the Colorado department of public health and environment's regulations for the licensing of these facilities.

(4) Any person duly licensed as a licensed clinical social worker or any person under the supervision of a licensed clinical social worker shall not be required to obtain any other license or certification to practice social work, as defined in section 12-43-403, unless otherwise required by the board of social work examiners.

(5) Any person possessing an earned master's or bachelor's degree in social work from a social work education program accredited by the council on social work education, or a doctoral degree in social work from a doctoral program within a social work education program accredited by the council on social work education has the right to practice social work and to use the title “social worker”. Only a person licensed as a clinical social worker or practicing under the supervision of a licensed clinical social worker may assert that he or she is practicing clinical social work or use the title of “clinical social worker”.

12-43-406. Scope of part.

(1) The practice of social work includes, but is not limited to, the following professional services: Assessment; differential diagnosis; treatment planning and evaluation; measurement of psychosocial functioning; crisis intervention; out-reach; short- and long-term treatment; psychotherapy; therapeutic intervention; client education; case management; mediation; advocacy; discharge, referral, and continuity of care planning; consultation; supervision; research; administration; education; social-group work; community organization; and social policy analysis and development. Social work practice also may encompass other current or developing modalities and techniques that are consistent with this scope.

(2) No person may state that he or she is engaged in the practice of social work as a social worker, or refer to himself or herself as a social worker, unless the person is licensed pursuant to this part 4 or possesses an earned social work degree, as defined in section 12-43-401 (11). No person may practice as

a clinical social worker unless licensed pursuant to section 12-43-404 (2) or licensed to practice social work and supervised pursuant to section 12-43-404 (1) or (2).

(3) No person may supervise the practice of social work for the purpose of licensure compliance or disciplinary proceedings unless licensed pursuant to section 12-43-404; except that, in cases where no LCSW is available for supervision for licensure, the licensee may apply to the board for approval to be supervised by a person with equivalent experience as determined by the board.

(4) Nothing in this part 4 shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice so long as they do not represent themselves to be social workers or their services as social work.

(5) Nothing in this part 4 prevents the practice of psychotherapy by persons registered with the state board of registered psychotherapists pursuant to section 12-43-702.5.

12-43-407. Exemptions.

Nothing in this part 4 shall be construed to prevent the teaching of social work, or the conduct of social work research, if such teaching or research does not involve the delivery or supervision of direct social work services to individuals who are themselves, rather than a third party, the intended beneficiaries of such services without regard to the source or extent of payment for services rendered. Nothing in this part 4 shall prevent the provision of expert testimony by social workers who are exempted by this part 4. Persons holding an earned doctoral degree in social work from an approved school may use the title "social worker" in conjunction with activities permitted in this section.

12-43-408. School social workers. (Repealed)

12-43-409. Clinical social work practice of psychotherapy.

For the purpose of licensure, the practice, under this part 4, of psychotherapy and other clinical activities within the definition of social work practice in section 12-43-403 is limited to licensed clinical social workers or licensed social workers supervised by licensed clinical social workers.

12-43-410. Employees of social services.

(1) Notwithstanding the exemption in section 12-43-215 (3), an employee of the department of human services, employee of a county department of social services, or personnel under the direct control or supervision of such departments, shall not state that he or she is engaged in the practice of social work as a social worker or refer to himself or herself as a social worker unless the person is licensed pursuant to this part 4 or possesses an earned social work degree, as defined in section 12-43-401 (11).

(2) Notwithstanding the exemption in section 12-43-215 (3), any employee licensed pursuant to this article who is terminated from employment by the department of human services or a county department of social services is subject to review and disciplinary action by the board that licenses or regulates the employee.

(3) An employee of the state department of human services or a county department of social services who has earned a bachelor's or master's degree in social work may apply to the board, for purposes related to licensure under this part 4, for approval for supervision by a person other than a licensed clinical social worker. The board shall consider input from representatives of the state department of human services and the county departments of social services when promulgating the rule concerning what qualifications or experience a person is required to possess in order to supervise an employee pursuant to this subsection (3).

12-43-411. Continuing professional competency-board rules-repeal.

(1) (a) In accordance with section 12-43-404, the board issues a license to practice as a clinical social worker or a social worker based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice as a licensed clinical social worker or a licensed social worker, respectively. After a license is issued to an applicant, the licensed clinical social worker or licensed social worker shall maintain continuing professional competency to practice as a licensed clinical social worker or licensed social worker, respectively.

(b) The board shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed clinical social worker or licensed social worker seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed clinical social worker or a licensed social worker to retake any examination required pursuant to section 12-43-404 in connection with initial licensure.

(c) The board shall establish that a licensed clinical social worker or licensed social worker is deemed to satisfy the continuing competency requirements of this section if the licensed clinical social worker or licensed social worker meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, licensed clinical social workers and licensed social workers shall satisfy the requirements of the program in order to renew or reinstate a license to practice as a licensed clinical social worker or as a licensed social worker in Colorado.

(II) The requirements of this section apply to individual licensed clinical social workers or licensed social workers who are licensed pursuant to this part 4, and nothing in this section shall be construed to require a person who employs or contracts with a licensed clinical social worker or licensed social worker to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed clinical social worker or a licensed social worker. The records or documents shall be used only by the board for purposes of determining whether a licensed clinical social worker or licensed social worker is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed clinical social worker or licensed social worker.

(3) As used in this section, “continuing professional competency” means the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a licensed clinical social worker or as a licensed social worker, as applicable, according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.

PART 5 MARRIAGE AND FAMILY THERAPISTS

12-43-501. Definitions.

As used in this part 5, unless the context otherwise requires:

(1) "Approved school" means any university or other institution of higher education offering a full-time graduate course of study in marriage and family therapy accredited by the commission on accreditation for marriage and family therapy education, a nationally recognized accrediting agency as determined by the board, or a substantially equivalent program approved by the board.

(2) "Board" means the state board of marriage and family therapist examiners created in section 12-43-502.

(3) Repealed.

(4) "Licensed marriage and family therapist" means a person licensed under the provisions of this part 5.

(5) Repealed.

12-43-502. State board of marriage and family therapist examiners.

(1) There is hereby created under the supervision and control of the division of registrations of the department of regulatory agencies, created in section 24-1-122 (2) (g), C.R.S., the state board of marriage and family therapist examiners, which shall consist of seven members who are citizens of the United States and residents of the state of Colorado.

(2) (a) The members of the board shall be appointed by the governor as follows:

(I) Three members of the general public who are not regulated by this article; and

(II) Four marriage and family therapists.

(b) The public members shall have never been a marriage and family therapist, an applicant or former applicant for licensure as a marriage and family therapist, a member of another mental health profession, or a member of a household that includes a marriage and family therapist or a member of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with his or her duties as a board member.

(c) (Deleted by amendment, L. 2004, p. 916, § 17, effective July 1, 2004.)

(3) (Deleted by amendment, L. 2007, p. 133, § 3, effective Aug. 3, 2007.)

(4) (a) Each board member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (4), members shall serve terms of four years, and no member shall serve more than two full consecutive terms. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than by the expiration of a term shall be filled by the governor by appointment for the remainder of the unexpired term of such member.

(b) The terms of office of the members on the board are modified as follows in order to ensure staggered terms of office:

(I) The second term of office of one of the board members representing the general public whose second term would otherwise expire on August 12, 2010, shall expire on July 31, 2008. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(II) The initial term of office of one of the marriage and family therapist board members whose initial term would otherwise expire on August 12, 2010, shall expire on July 31, 2008, and the board member shall be eligible to serve one additional four-year term commencing on August 1, 2008, and expiring on July 31, 2012. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(III) The term of office of the one board member representing the general public who, as of August 12, 2009, would have served one full four-year term and one partial four-year term expires on July 31, 2009. This board member is eligible to serve one additional four-year term commencing on August 1, 2009, and expiring on July 31, 2013. On and after the expiration of this board member's term or a vacancy in this position, the governor shall appoint a marriage and family therapist to this position on the board, who is eligible to serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(IV) The initial term of office of one of the marriage and family therapist board members whose initial term would otherwise expire on August 12, 2010, shall expire on July 31, 2009, and the board member shall be eligible to serve one additional four-year term commencing August 1, 2009, and expiring on July 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(V) The initial term of office of one of the marriage and family therapist board members whose initial term of office would otherwise expire on August 12, 2010, shall expire on July 31, 2010, and the board member shall be eligible to serve one additional four-year term commencing on August 1, 2010, and expiring on July 31, 2014. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(VI) The second term of office of one of the board members representing the general public whose second term would otherwise expire on August 12, 2010, shall expire on July 31, 2010, and the governor shall appoint one new representative of the general public to serve terms as described in paragraph (a) of this subsection (4) commencing on August 1, 2010.

(VII) The term of office of the one board member representing the general public who, as of August 12, 2010, would have served one full four-year term and one partial four-year term shall expire on July 31, 2010. This board member shall be eligible to serve one additional four-year term commencing on August 1, 2010, and expiring on July 31, 2014. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on August 1 of the applicable year.

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-503. Marriage and family therapy practice defined.

(1) For the purposes of this part 5, “marriage and family therapy practice” means the rendering of professional marriage and family therapy services to individuals, couples, and families, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a monetary fee. Marriage and family therapy utilizes established principles that recognize the interrelated nature of individual problems and dysfunctions to assess, understand, diagnose, and treat emotional and mental problems, alcohol and substance abuse, and domestic violence, and modify intrapersonal and interpersonal dysfunctions.

(2) Professional marriage and family therapy practice may include, but is not limited to:

- (a) Assessment and testing;
- (b) Diagnosis;
- (c) Treatment planning and evaluation;
- (d) Therapeutic individual, marital, family, group, or organizational interventions;
- (e) Psychotherapy;
- (f) Client education;
- (g) Consultation; and
- (h) Supervision.

(3) Professional marriage and family therapy practice includes practicing within the values and ethics of the marriage and family therapy profession.

(4) This definition is to be interpreted in a manner that does not impinge upon or otherwise limit the scope of practice of other psychotherapists licensed under this article.

12-43-504. Qualifications-examination-licensure and registration.

(1) The board shall issue a license as a marriage and family therapist to each applicant who files an application in a form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and furnishes evidence satisfactory to the board that he or she:

- (a) Is at least twenty-one years of age;
- (b) Is not in violation of any provision of this article or any rule adopted under this article;
- (c) Holds a master's or doctoral degree from an accredited school or college in marriage and family therapy or its equivalent as determined by the board, such degree to include a practicum or internship in the principles and practice of marriage and family therapy;
- (d) Subsequent to receiving his or her master's or doctoral degree, has had at least two years of post-master's or one year postdoctoral practice in individual and marriage and family therapy, including at least one thousand five hundred hours of face-to-face direct client contact as determined by the board for the purpose of assessment and intervention under board-approved supervision; and
- (e) Demonstrates professional competence by passing an examination in marriage and family therapy prescribed by the board and a jurisprudence examination administered by the division.

(2) (Deleted by amendment, L. 2007, p.139, § 3, effective July 1, 2007.)

(3) The examination by the board described in paragraph (e) of subsection (1) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(4) The board or its designated representatives shall administer and determine the pass or fail status

of the examination and take any actions necessary to ensure impartiality. The board shall determine the passing score for the examination based upon a level of minimum competency to engage in marriage and family therapy practice.

(5) (a) The board shall register as a marriage and family therapist candidate a person who:

(I) Files an application for registration, accompanied by the fee as required by section 12-43-204;

(II) Submits evidence satisfactory to the board that he or she meets the requirements of paragraphs (a), (b), and (c) of subsection (1) of this section; and

(III) Has not been previously registered as a marriage and family therapist candidate by the board.

(b) A marriage and family therapist candidate who registers with the board pursuant to this subsection (5) is under the jurisdiction of the board and is not required to register with the database of registered psychotherapists pursuant to section 12-43-702.5.

(c) If a candidate does not meet the requirements of paragraphs (d) and (e) of subsection (1) of this section within four years after initial registration, the candidate's registration expires and is not renewable, unless the board, in its discretion, grants the candidate an extension. A person whose marriage and family therapist candidate registration expires is not precluded from applying to this board or to any other board for licensure or registration in a mental health profession for which the person is qualified.

12-43-505. Rights and privileges of licensure and registration.

(1) Any person who possesses a valid, unsuspended, and unrevoked license as a licensed marriage and family therapist pursuant to section 12-43-504 has the right to engage in the private, independent practice of marriage and family therapy and has the right to practice and supervise marriage and family therapy practice and use the title "licensed marriage and family therapist" and the abbreviation "LMFT". No other person shall assume these titles or use these abbreviations on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed marriage and family therapist.

(2) No person may engage in the practice of marriage and family therapy unless such person is licensed pursuant to this part 5.

(3) Any person duly licensed as a licensed marriage and family therapist shall not be required to obtain any other license or certification to practice marriage and family therapy as defined in section 12-43-503 unless otherwise required by the board of marriage and family therapist examiners.

(4) Nothing in this part 5 shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice as set out in the statutes regulating their professional practices, provided that they do not represent themselves to be marriage and family therapists, or their services as marriage and family therapy.

(5) Nothing in this part 5 prevents the practice of psychotherapy by persons registered with the state board of registered psychotherapists pursuant to section 12-43-702.5.

12-43-506. Continuing professional competency-board rules-repeal.

(1) (a) In accordance with section 12-43-504, the board issues a license to practice marriage and family therapy based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice marriage and family therapy. After a license is issued to an applicant, the licensed marriage and family therapist shall maintain continuing professional competency to practice marriage and family therapy.

(b) The board shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed marriage and family therapist seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed marriage and family therapist to retake any examination required pursuant to section 12-43-504 in connection with initial licensure.

(c) The board shall establish that a licensed marriage and family therapist is deemed to satisfy the continuing competency requirements of this section if the licensed marriage and family therapist meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, a licensed marriage and family therapist shall satisfy the requirements of the program in order to renew or reinstate a license to practice marriage and family therapy in Colorado.

(II) The requirements of this section apply to individual marriage and family therapists who are licensed pursuant to this part 5, and nothing in this section shall be construed to require a person who employs or contracts with a licensed marriage and family therapist to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed marriage and family therapist. The records or documents shall be used only by the board for purposes of determining whether a licensed marriage and family therapist is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed marriage and family therapist.

(3) As used in this section, “continuing professional competency” means the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a marriage and family therapist according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.

PART 6

LICENSED PROFESSIONAL COUNSELORS

12-43-601. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) “Board” means the state board of licensed professional counselor examiners, created in section 12-43-602.

(2) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1317, § 53, eff. July 1, 2011.)

(3) Repealed.

(4) “Licensed professional counselor” means a professional counselor who practices professional counseling and who is licensed pursuant to this part 6.

(5) (Deleted by amendment, L. 2011, (SB 11-187), Ch. 285, p. 1317, § 53, effective July 1, 2011.)

(6) “School or college” means any university or other institution of higher education offering a full-time graduate course of study in professional counseling approved by appropriate national organizations accrediting professional counselor education programs or a substantially equivalent program approved by the board.

12-43-602. State board of licensed professional counselor examiners.

(1) There is hereby created the state board of licensed professional counselor examiners under the supervision and control of the division of registrations of the department of regulatory agencies, created in section 24-1-122 (2) (g), C.R.S. The board shall consist of seven members who are citizens of the United States and residents of the state of Colorado.

(2) (a) The members of the board shall be appointed by the governor as follows:

(I) Three members of the general public who are not regulated under this article; and

(II) Four licensed professional counselors.

(b) The public members shall have never been a licensed professional counselor, an applicant or former applicant for licensure as a licensed professional counselor, a member of another mental health profession, or a member of a household that includes a licensed professional counselor or a member of another mental health profession or otherwise have conflicts of interest or the appearance of such conflicts with his or her duties as a board member.

(c) (Deleted by amendment, L. 2004, p. 917, § 19, effective July 1, 2004.)

(3) (Deleted by amendment, L. 2007, p. 135, § 4, effective Aug. 3, 2007.)

(4) (a) Each member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (4), members shall serve terms of four years, and no member shall serve more than two full consecutive terms. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than by the expiration of a term shall be filled by the governor by appointment for the unexpired term of such member.

(b) The terms of office of the members on the board are modified as follows in order to ensure staggered terms of office:

(I) The terms of office of the one licensed professional counselor board member and one of the board members representing the general public who, as of September 12, 2010, would have served one full four-year term and one partial four-year term shall expire on August 31, 2008. Each of these board members shall be eligible to serve one additional four-year term, commencing on September 1, 2008, and expiring on August 31, 2012. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(II) The term of office of the one board member representing the public whose initial term would

otherwise expire on September 12, 2009, expires on August 31, 2009, and the board member is eligible to serve one additional four-year term, commencing on September 1, 2009, and expiring on August 31, 2013. On and after the expiration of this board member's term or a vacancy in this position, the governor shall appoint a licensed professional counselor to this position on the board, who is eligible to serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(III) The initial term of office of one of the two licensed professional counselor board members whose initial term of office would otherwise expire on September 12, 2010, shall expire on August 31, 2009. This board member shall be eligible to serve one additional four-year term commencing on September 1, 2009, and expiring on August 31, 2013. On and after the expiration of this board member's term, persons appointed to this position on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(IV) The initial terms of office of the two remaining board members representing the general public and the one remaining licensed professional counselor whose initial terms would otherwise expire on September 12, 2010, shall expire on August 31, 2010. Each of these board members shall be eligible to serve one additional four-year term commencing on September 1, 2010, and expiring on August 31, 2014. On and after the expiration of these board members' terms, persons appointed to these positions on the board shall serve terms as described in paragraph (a) of this subsection (4) commencing on September 1 of the applicable year.

(5) The governor may remove any board member for misconduct, incompetence, or neglect of duty after giving the board member a written statement of the charges and an opportunity to be heard thereon. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three quarters of the total meetings in any calendar year.

(6) Each board member shall receive a certificate of appointment from the governor.

12-43-602.5. Practice of licensed professional counseling defined.

(1) For purposes of this part 6, "practice of licensed professional counseling" means the application of mental health, psychological, or human development principles through cognitive, affective, behavioral, or systematic intervention strategies that address wellness, personal growth, or career development, as well as pathology. A licensed professional counselor may render the application of these principles to individuals, couples, families, or groups.

(2) The practice of professional counseling may include:

- (a) Evaluation;
- (b) Assessment;
- (c) Testing;
- (d) Diagnosis;
- (e) Treatment or intervention;
- (f) Planning;
- (g) Consultation;
- (h) Case management;
- (i) Education;
- (j) Supervision;
- (k) Psychotherapy;

- (l) Research;
- (m) Referral; and
- (n) Crisis intervention.

12-43-603. Licensure-examination-licensed professional counselors.

(1) The board shall issue a license as a licensed professional counselor to each applicant who files an application in a form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and furnishes evidence satisfactory to the board that he or she:

- (a) Is at least twenty-one years of age;
- (b) Is not in violation of any provision of this article or any rule adopted under this article;
- (c) Holds a master's or doctoral degree in professional counseling from an accredited school or college or an equivalent program as determined by the board. Such degree or program shall include a practicum or internship in the principles and the practice of professional counseling.
- (d) Has at least two years of post-master's practice or one year of postdoctoral practice in licensed professional counseling under supervision approved by the board; and
- (e) Demonstrates professional competence by passing an examination in professional counseling demonstrating special knowledge and skill in licensed professional counseling as prescribed by the board and a jurisprudence examination administered by the division.

(2) (Deleted by amendment, L. 2007, p. 140, § 4, effective July 1, 2007.)

(3) The examination by the board described in paragraph (e) of subsection (1) of this section shall be given not less than twice per year at such time and place and under such supervision as the board may determine.

(4) The board or its designated representatives shall administer and determine the pass or fail status of the examination and take any actions necessary to ensure impartiality. The board shall determine the passing score for the examination based upon a level of minimum competency to engage in the practice of licensed professional counseling.

(5) (a) The board shall register as a licensed professional counselor candidate a person who:

- (I) Files an application for registration, accompanied by the fee as required by section 12-43-204;
- (II) Submits evidence satisfactory to the board that he or she meets the requirements of paragraphs (a), (b), and (c) of subsection (1) of this section; and
- (III) Has not been previously registered as a licensed professional counselor candidate by the board.

(b) A licensed professional counselor candidate who registers with the state board of licensed professional counselor examiners pursuant to this subsection (5) is under the jurisdiction of the board and is not required to register with the database of registered psychotherapists pursuant to section 12-43-702.5.

(c) If a candidate does not meet the requirements of paragraphs (d) and (e) of subsection (1) of this section within four years after initial registration, the candidate's registration expires and is not renewable, unless the board, in its discretion, grants the candidate an extension. A person whose licensed professional counselor candidate registration expires is not precluded from applying to this board or to any other board for licensure or registration in a mental health profession for which the person is qualified.

12-43-604. Rights and privileges of licensure.

(1) Any person who possesses a valid, unsuspended, and unrevoked license as a licensed professional counselor has the right to use the title for which he or she is licensed pursuant to section 12-43-603. A licensed professional counselor licensed pursuant to section 12-43-603 has the right to use the abbreviation "LPC". No other person shall assume this title or use this abbreviation on any work or letter, sign, figure, or device to indicate that the person using the same is a licensed professional counselor.

(2) Any person duly licensed as a licensed professional counselor is not required to obtain any other license or certification to practice professional counseling unless otherwise required by the board of licensed professional counselor examiners.

(3) Nothing in this act shall be construed to prevent members of other professions licensed under the laws of this state from rendering services within the scope of practice as set out in the statutes regulating their professional practices, provided that they do not represent themselves to be professional counselors, or their services as professional counseling.

(4) Nothing in this part 6 prevents the practice of psychotherapy by persons registered with the state board of registered psychotherapists pursuant to section 12-43-702.5.

12-43-605. Continuing professional competency-board rules-repeal.

(1) (a) In accordance with section 12-43-603, the board issues a license to practice professional counseling based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice professional counseling. After a license is issued to an applicant, the licensed professional counselor shall maintain continuing professional competency to practice professional counseling.

(b) The board shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed professional counselor seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed professional counselor to retake any examination required pursuant to section 12-43-603 in connection with initial licensure.

(c) The board shall establish that a licensed professional counselor is deemed to satisfy the continuing competency requirements of this section if the licensed professional counselor meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, a licensed professional counselor shall satisfy the requirements of the program in order to renew or reinstate a license to practice professional counseling in Colorado.

(II) The requirements of this section apply to individual professional counselors who are licensed pursuant to this part 6, and nothing in this section shall be construed to require a person who employs or contracts with a licensed professional counselor to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed professional counselor. The records or documents shall be used only by the board for purposes of determining whether a licensed professional counselor is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed professional counselor.

(3) As used in this section, “continuing professional competency” means the ongoing ability of a licensee to learn, integrate, and apply the knowledge, skill, and judgment to practice as a professional counselor according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.

PART 7

STATE GRIEVANCE BOARD

12-43-701. Definitions.

As used in this part 7, unless the context otherwise requires:

(1) “Board” means the state board of registered psychotherapists created by section 12-43-702.

(2) Repealed.

(3) and (4) (Deleted by amendment, L. 2011, (SB 11-187), ch. 285, p. 1282, § 10, effective July 1, 2011.)

12-43-702. State board of registered psychotherapists-creation-subject to termination.

(1) There is hereby created the state board of registered psychotherapists, which shall be under the supervision and control of the division of registrations as provided in section 24-34-102, C.R.S. The board shall consist of seven members who are residents of the state of Colorado.

(2) Three members of the board shall be appointed by the governor from the general public who are not regulated by this article with a good faith effort to achieve broad-based geographical representation. Such members are eligible to serve terms of four years. A member must not have any direct involvement or interest in the provision of psychotherapy; except that such member may be or may have been a consumer of such services.

(3) Four members of the board must be registered psychotherapists. The governor shall appoint members to the board to serve terms of four years.

(4) (Deleted by amendment, L. 2004, p. 917, § 21, effective July 1, 2004.)

(5) Members of the state board of registered psychotherapists appointed under subsection (2) or (3) of this section may serve two full consecutive terms.

(6) (a) Each member is eligible to hold office until the expiration of his or her appointed term or until a successor is duly appointed. When the term of each board member expires, the governor shall appoint his or her successor for a term of four years. Any vacancy occurring in the board membership other than

by the expiration of a term shall be filled by the governor by appointment for the unexpired term of such member.

(b) For purposes of appointments to the board made on or after July 1, 2011, upon the occurrence of a vacancy in a position held by a member representing the public or upon the expiration of the second term of office of a member representing the public, whichever occurs first, the governor shall appoint a regulated psychotherapist to that position on the board, who is eligible to serve terms as described in subsections (3) and (5) of this section.

(c) The governor may remove any board member for misconduct, incompetence, or neglect of duty. Actions constituting neglect of duty shall include, but not be limited to, the failure of board members to attend three consecutive meetings or at least three-quarters of the board's meetings in any one calendar year.

(7) A majority of the board shall constitute a quorum for the transaction of all business.

12-43-702.5. Database of registered psychotherapists-unauthorized practice-penalties-data collection.

(1) The state board of registered psychotherapists shall maintain a database of all registered psychotherapists. The board shall charge a fee in the same manner as authorized in section 24-34-105, C.R.S., for recording information in the database as required by this section. Information in the database maintained pursuant to this section is open to public inspection at all times.

(2) Any person not otherwise licensed, registered, or certified pursuant to this article who is practicing psychotherapy in this state shall register with the board by submitting his or her name, current address, educational qualifications, disclosure statements, therapeutic orientation or methodology, or both, and years of experience in each specialty area. Upon receipt and review of the required information, the board may approve the psychotherapist for registration in the database required by subsection (1) of this section. A registered psychotherapist shall update this information upon renewal of his or her registration and at other times and under conditions specified by the board by rule. At the time of recording the information required by this section, the registered psychotherapist shall indicate whether he or she has been convicted of, or entered a plea of guilty or nolo contendere to, any felony or misdemeanor.

(3) An unlicensed person whose primary practice is psychotherapy or who holds himself or herself out to the public as able to practice psychotherapy for compensation shall not practice psychotherapy unless the person is registered with the board and included in the database required by this section. Notwithstanding the requirements of this section, a registered psychotherapist shall not use the term "licensed", "certified", "clinical", "state-approved", or any other term or abbreviation that would falsely give the impression that the psychotherapist or the service that is being provided is recommended by the state, based solely on inclusion in the database.

(4) The state board of registered psychotherapists shall not register a person pursuant to this section unless the person has successfully completed a jurisprudence examination developed and approved by the division.

(5) Any unlicensed person who practices psychotherapy without first complying with the registration requirements of this section commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., for the first offense, and for the second or any subsequent offense, the person commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

12-43-703. Powers and duties of the grievance board. (Repealed)

12-43-704. Prohibited activities-related provisions. (Repealed)

12-43-704.5. Authority of grievance board-cease-and-desist orders. (Repealed)

12-43-705. Disciplinary proceedings-judicial review-mental and physical examinations. (Repealed)

12-43-706. Reconsideration and review of action of grievance board. (Repealed)

12-43-707. Unlawful acts. (Repealed)

12-43-708. Injunctive proceedings. (Repealed)

12-43-709. Expenses of the board.

All reasonable expenses of the board shall be paid as determined by the director of the division of registrations from the fees collected pursuant to section 12-43-204 as provided by law.

12-43-710. Jurisdiction.

If the licensee, registrant, or certificate holder is regulated by more than one board, the investigation or case being adjudicated shall be referred to the board determined appropriate by the director for final adjudication.

12-43-711. Records. (Repealed)

12-43-712. Repeal of article. (Repealed)

PART 8 ADDICTION COUNSELORS

12-43-801. Definitions.

As used in this part 8, unless the context otherwise requires:

(1) “Addiction” means a persistent, compulsive dependence on a behavior or substance, including mood-altering behaviors or activities known as process addictions.

(2) “Administrative supervision” means oversight of treatment agency operations, organization of people and resources, and implementation of policies and procedures in a way that directs activities towards agency goals and objectives.

(3) “Approved school, college, or university” means any accredited institution of higher education offering a full-time graduate or undergraduate course of study in behavioral health sciences, such as addiction counseling, human services, psychology, rehabilitation, social work, or other behavioral health sciences, that is recognized by an appropriate national organization or is approved by the board.

(4) “Behavioral health disorders” means both mental and substance use disorders.

(5) “Board” means the state board of addiction counselor examiners created in section 12-43-802.

(6) “Certified” means certified as an addiction counselor certified at level I, II, or III.

(7) “Certified addiction counselor” means an individual who has a certificate issued by the board

authorizing the individual to practice addiction counseling commensurate with his or her certification level and scope of practice.

(8) "Clinical supervision" means:

(a) The evaluation and modification or approval by a supervisor of the clinical practice of the person being supervised; and

(b) A source of knowledge, expertise, and more advanced skills made available to the person being supervised.

(9) "Co-occurring disorders" means the existence of one or more substance use disorders, addictive behavioral disorders, or mental disorders presenting concurrently. At the individual level, co-occurring disorders exist when at least one disorder can be established independent of the other, and the disorders are not simply a cluster of symptoms resulting from a single disorder.

(10) "License" means a license issued by the board pursuant to this part 8 to engage in the practice of a licensed addiction counselor.

(11) "Licensed addiction counselor" means a person licensed by the board to provide professional behavioral health disorder treatment.

12-43-802. State board of addiction counselor examiners.

(1) There is hereby created a state board of addiction counselor examiners under the supervision and control of the division of registrations in the department of regulatory agencies. Once the governor appoints the board members and the board adopts necessary rules, the board is responsible for regulating addiction counselors pursuant to this part 8 and this article. The director retains the authority to regulate addiction counselors for three months after the date on which all members of the board have been appointed, and the director's rules adopted pursuant to this part 8 remain in effect until the director repeals the rules.

(2) The board consists of seven members who are citizens of the United States and residents of the state of Colorado. By November 30, 2011, the governor shall appoint the members of the board as follows:

(a) (I) Four board members must be licensed or certified addiction counselors, and except as provided in subparagraph (II) of this paragraph (a), at least two of these four members must be engaged in the direct practice of addiction counseling. The four board members appointed pursuant to this paragraph (a) must include at least one licensed addiction counselor and at least one certified addiction counselor.

(II) If, after a good-faith attempt, the governor determines that a licensed or certified addiction counselor who is engaged in the direct practice of addiction counseling is not available to serve on the board for a particular term, the governor may appoint a licensed or certified addiction counselor who is not engaged in the direct practice of addiction counseling to serve on the board pursuant to this paragraph (a).

(b) Three board members must be representatives of the general public, one of whom may be an addiction counseling consumer or family member of an addiction counseling consumer. These individuals must have never been addiction counselors, applicants, or former applicants for licensure or certification as an addiction counselor, members of another mental health profession, members of households that include addiction counselors or any other mental health professional, or otherwise have conflicts of interest or the appearance of a conflict with their duties as board members.

(3) (a) Each board member shall hold office until the expiration of the member's appointed term or until a successor is duly appointed. Except as specified in paragraph (b) of this subsection (3), the term of each member is four years, and a board member shall not serve more than two full consecutive terms. The

governor shall fill a vacancy occurring in board membership, other than by expiration of a term, by appointment for the unexpired term of the member.

(b) The initial terms of office of the members appointed to the board as of January 1, 2012, are modified as follows in order to ensure staggered terms of office:

(I) The initial term of office of one of the board members representing the general public, whose initial term would otherwise expire on December 31, 2015, expires on December 31, 2013, and this board member is eligible to serve one additional four-year term commencing on January 1, 2014, and expiring on December 31, 2017. On and after the expiration of the board member's term, the term of a person appointed to this member's position on the board is as described in paragraph (a) of this subsection (3) commencing on January 1 of the applicable year.

(II) The initial terms of office of two of the licensed or certified addiction counselor board members, whose initial terms would otherwise expire on December 31, 2015, expire on December 31, 2013. These board members are eligible to serve one additional four-year term, commencing on January 1, 2014, and expiring on December 31, 2017. On and after the expiration of these board members' terms, the terms of persons appointed to the members' positions on the board are as described in paragraph (a) of this subsection (3) commencing on January 1 of the applicable year.

(4) The governor may remove any board member for misconduct, incompetence, or neglect of duty. Actions constituting neglect of duty include the failure of board members to attend three consecutive meetings or at least three-fourths of the total meetings in any calendar year.

12-43-803. Practice of addiction counseling defined-scope of practice.

(1) For the purposes of this part 8, "addiction counseling" means the application of general counseling theories and treatment methods adapted specifically for working with addictive and other behavioral health disorders. Addiction counselors work in a broad variety of disciplines but share an understanding of the addictive process. An addiction counselor identifies a variety of helping strategies that can be tailored to meet the needs of the client. Addiction counseling relies on the use of evidence-based practices that have been shown to be effective in treating addictive disorders.

(2) The scope of practice of addiction counseling focuses on the following four trans-disciplinary foundations that underlie the work of all addiction counselors:

(a) **Understanding addiction:** Includes knowledge of models and theories of addiction; recognition of social, political, economic, and cultural contexts within which addiction exists; understanding the behavioral, psychological, physical health, and social effects of using addictive substances or engaging in addictive behaviors; and recognizing and understanding co-occurring disorders.

(b) **Treatment knowledge:** Includes the philosophies, practices, policies, and outcomes of the most generally accepted and scientifically supported models, along with research and outcome data, of treatment, recovery, relapse prevention, and continuing care for addictive disorders. Treatment knowledge includes the ability to work effectively with families, significant others, social networks, and community systems in the treatment process and understanding the value of a multidisciplinary approach to addiction treatment.

(c) **Application to practice:** Includes the ability to properly diagnose behavioral health disorders using appropriate assessment and testing instruments and placement criteria; stabilization to reduce negative effects of problematic behaviors; developing helping strategies and treatment levels of care based on the client's stage of readiness for change; cultural competency; and familiarity with medical and pharmacological resources for treatment.

(d) **Professional readiness:** Includes an understanding of diverse cultures; cultivation of a high level of self-awareness; ability to use critical thinking skills; adherence to ethical standards of conduct; ongoing

use of clinical supervision and consultation; crisis management; and knowledge of the importance of prevention and recovery management.

(3) The primary practice dimensions of addiction counseling include the following competencies, as appropriate based on the level of certification or licensure and scope of practice:

- (a) Clinical evaluation, including screening and assessment;
- (b) Clinical intake, discharge, discharge planning, and referral;
- (c) Treatment planning;
- (d) Service coordination, including client advocacy, continuing care planning, and collaboration with other behavioral health professionals;
- (e) Counseling of individuals, groups, families, couples, and significant others;
- (f) Recovery management;
- (g) Case management;
- (h) Client, family, and community education;
- (i) Documentation required for a clinical record;
- (j) Professional and ethical practices;
- (k) Clinical supervision; and
- (l) Intervention.

(4) **Scope of practice-licensed addiction counselors.** Based on education, training, knowledge, and experience, the scope of practice of a licensed addiction counselor includes behavioral health counseling and may include the treatment of substance use disorders, addictive behavioral disorders, and co-occurring disorders, including clinical evaluation and diagnosis, treatment planning, service coordination, case management, clinical documentation, professional and ethical responsibilities, education and psychotherapy with clients, family, and community, clinical supervisory responsibilities, and intervention.

12-43-804. Requirements for licensure and certification-rules.

(1) The board shall issue a license as an addiction counselor to an applicant who files an application in the form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and submits evidence satisfactory to the board that he or she:

- (a) Is at least twenty-one years of age;
- (b) Is not in violation of any provision of this article or any rules promulgated by the board;
- (c) Holds a master's or doctorate degree in the behavioral health sciences from an accredited school, college, or university or an equivalent program as determined by the board;
- (d) Demonstrates professional competence by:
 - (I) Passing a national examination demonstrating special knowledge and skills in behavioral health disorders counseling as determined by the division of behavioral health in the department of human services and approved by the board; and
 - (II) Passing a jurisprudence examination administered by the division;
- (e) Has met the requirements for a certificate of addiction counseling, level III;
- (f) Has completed the number of clock hours of addiction-specific training, as specified by the board

by rule, including training in evidence-based treatment approaches, clinical supervision, ethics, and co-occurring disorders; and

(g) Has completed at least five thousand hours of clinically supervised work experience.

(2) The board shall issue a certification as an addiction counselor to an applicant who files an application in the form and manner required by the board, submits the fee required by the board pursuant to section 12-43-204, and submits evidence satisfactory to the board that he or she:

(a) Is at least eighteen years of age;

(b) Is not in violation of any provision of this article or any rules promulgated by the board or by the state board of human services in the department of human services pursuant to section 27-80-108 (1) (e), C.R.S.;

(c) Has met the requirements for certification at a particular certification level as specified in rules adopted pursuant to subsection (3) of this section by the state board of human services in the department of human services.

(3) The state board of human services in the department of human services shall promulgate rules, with approval of the board, for certification of addiction counselors in accordance with section 27-80-108 (1) (e), C.R.S.

(4) Nothing in this part 8 prevents members of other professions licensed under the laws of this state from rendering services within their scope of practice as set forth in the statutes regulating their professional practices so long as they do not represent themselves to be certified or licensed addiction counselors.

12-43-804.5. Rights and privileges of certification and licensure.

(1) Any person who possesses a valid, unsuspended, and unrevoked certificate as a level I, II, or III certified addiction counselor has the right to practice addiction counseling under supervision or consultation as required by the rules of the state board of human services in the department of human services; a level III certified addiction counselor has the right to supervise addiction counseling practice; and all levels of certification have the right to use the title “certified addiction counselor” and the abbreviations “CAC I”, “CAC II”, or “CAC III”, as applicable. No other person shall assume these titles or use these abbreviations on any work or media to indicate that the person using the title or abbreviation is a certified addiction counselor.

(2) Any person who possesses a valid, unsuspended, and unrevoked license as an addiction counselor has the right to practice addiction counseling and to use the title “licensed addiction counselor” or the abbreviation “LAC”. No other person shall assume these titles or use these abbreviations on any work or media to indicate that the person using the title or abbreviation is a licensed addiction counselor.

12-43-805. Continuing professional competency-rules-repeal.

(1) (a) In accordance with sections 12-43-803 and 12-43-804, the board issues a license or certificate to practice addiction counseling based on whether the applicant satisfies minimum educational and experience requirements that demonstrate professional competency to practice addiction counseling. After a license or a certificate as a level II or level III addiction counselor is issued to an applicant, the licensed or level II or level III certified addiction counselor shall maintain continuing professional competency to practice addiction counseling.

(b) The board, in consultation with the division of behavioral health in the department of human services and other stakeholders, shall adopt rules establishing a continuing professional competency program that includes, at a minimum, the following elements:

(I) A self-assessment of the knowledge and skills of a licensed or level II or level III certified addiction counselor seeking to renew or reinstate a license;

(II) Development, execution, and documentation of a learning plan based on the assessment; and

(III) Periodic demonstration of knowledge and skills through documentation of activities necessary to ensure at least minimal ability to safely practice the profession. Nothing in this subparagraph (III) shall require a licensed or level II or level III certified addiction counselor to retake any examination required pursuant to section 12-43-804 in connection with initial licensure or certification.

(c) A licensed or level II or level III certified addiction counselor satisfies the continuing competency requirements of this section if the licensed or level II or level III certified addiction counselor meets the continued professional competence requirements of one of the following entities:

(I) A state department, including continued professional competence requirements imposed through a contractual arrangement with a provider;

(II) An accrediting body recognized by the board; or

(III) An entity approved by the board.

(d) (I) After the program is established, a licensed or level II or level III certified addiction counselor shall satisfy the requirements of the program in order to renew or reinstate a license or certificate to practice addiction counseling in Colorado.

(II) The requirements of this section apply to individual addiction counselors who are licensed or level II or level III certified pursuant to this part 8, and nothing in this section shall be construed to require a person who employs or contracts with a licensed or level II or level III certified addiction counselor to comply with the requirements of this section.

(2) (a) Records of assessments or other documentation developed or submitted in connection with the continuing professional competency program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed or certified addiction counselor. The records or documents shall be used only by the board for purposes of determining whether a licensed or level II or level III certified addiction counselor is maintaining continuing professional competency to engage in the profession.

(b) Subject to the requirements of paragraph (a) of this subsection (2), nothing in this section shall be construed to restrict the discovery of information or documents that are otherwise discoverable under the Colorado rules of civil procedure in connection with a civil action against a licensed or certified addiction counselor.

(3) As used in this section, “continuing professional competency” means the ongoing ability of a licensed or level II or level III certified addiction counselor to learn, integrate, and apply the knowledge, skill, and judgment to practice as an addiction counselor according to generally accepted industry standards and professional ethical standards in a designated role and setting.

(4) This section is repealed, effective July 1, 2014.